Government
Publications

SESSIONAL PAPERS.

VOL. XLIV.—PART XIV.

FIRST SESSION

OF THE

THIRTEENTH LEGISLATURE

OF THE

PROVINCE OF ONTARIO.

SESSION 1912.

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LIST OF SESSIONAL PAPERS

ARRANGED ALPHABETICALLY.

TITLE.	No.	REMARKS.
Accounts, Public	1	*Printed.*
Agricultural College, Report	29	"
Agricultural and Experimental Union, Report	31	"
Agricultural Societies, Report	43	"
Agriculture, Department of, Report	28	"
Apples, Barrels of, at Demonstration Orchards	75	*Not Printed.*
Archivist, Report	50	*Printed.*
Auditor, Provincial, Statement of	53	"
Bee-keepers' Association, Report	37	*Printed.*
Bi-lingual Schools, Merchant's Report	62	*Printed for Distribution.*
Births, Marriages and Deaths, Report	19	*Printed.*
Boundary, Ontario and Manitoba, Correspondence	54	*Printed for Distribution.*
Boundary, Ontario and Manitoba, Order-in-Council	59	*Not Printed.*
Canadian Hospital Association	81	*Printed for Distribution.*
Charities and Correction Conference	80	*Printed for Distribution.*
Children, Neglected, Report	26	*Printed.*
Combines, Prosecution of Alleged	82	*Not Printed.*
Compensation for Injuries to Employees	65	*Printed.*
Corn Growers' Association, Report	35	"
Dairymen's Association, Report	38	*Printed.*
Demonstration Orchards, Apples at	75	*Not Printed.*
Dempsey, S. J., Correspondence	83	"
Division Courts, Report	5	*Printed.*
Education Report	16	*Printed.*
Education, Orders-in-Council	57	*Not Printed.*
Education, English-French Schools Report	62	*Printed for Distribution.*
Education, Correspondence, Teaching in Springer	78	*Not Printed.*
Elections, Interference in, by Officials	72	"
Elections, Returns from Records	49	*Printed.*
Employers and Employees, Compensation for Injuries, Report	65	"

Title.	No.	Remarks.
English-French Schools, Merchant's Report	62	*Printed for Distribution.*
Entomological Society, Report	36	*Printed.*
Estimates	2	"
Factories, Report	45	*Printed.*
Farmers' Institutes, Report	40	"
Feeble-Minded, Report	23	"
Fruit Branch, Report	33	"
Fruit-Growers' Report	32	"
Game and Fisheries, Report	13	*Printed.*
Game and Fisheries Commission, Report	52	"
Government Employees, Interference in Elections	72	*Not Printed.*
Hardy, Judge, Commutation	63	*Not Printed.*
Health, Report	20	*Printed.*
Highways, Permanent, Correspondence *re* Construction	74	*Not Printed.*
Highways, Improvement, Report	14	*Printed.*
Horticultural Societies, Report	42	"
Hospitals and Charities, Report	24	"
Hydro-Electric Power Commission, Report	47	"
Idiots and Epileptics, Report	22	*Printed.*
Industries Report	44	"
Infant Mortality, Report	60	"
Insane Hospitals, Report	21	"
Insurance, Report	10	"
James Bay Surveys, Report	70	*Printed for Distribution.*
Judicature Act, Commutation	63	*Not Printed.*
Labour, Report	15	*Printed.*
Lands, Forests and Mines, Report	3	"
Legal Offices, Report	6	"
Library, Report	51	*Not Printed.*
Liquor License Acts, Report	27	*Printed.*
Liquor, Illegal Sale of, Prosecutions for	55	*Not Printed.*
Live Stock Associations, Report	39	*Printed.*
Loan Corporations, Statements	11	"
Mines, Report	4	*Printed.*
Municipal Auditor, Provincial, Report	8	"

Title.	No.	Remarks.
Ne Temere Decree, Questions	58	*Not Printed.*
Northern Ontario, Prosecutions in	55	"
Ontario and Manitoba Boundary, Order-in-Council	59	*Not Printed.*
Ontario and Manitoba Boundary, Correspondence	54	*Printed.*
Ontario Railway and Municipal Board, Report	48	"
Political Contests, Official Interference in	72	*Not Printed.*
Provincial Municipal Auditor, Report	8	*Printed.*
Printing Paper Agreements	66 67 68	"
Prisons and Reformatories, Report	25	"
Psychiatry in Ontario, Bulletin	69	*Printed for Distribution.*
Public Accounts	1	*Printed.*
Public Works, Report	12	"
Queen Victoria Niagara Falls Park, Report	9	*Printed.*
Railway and Municipal Board, Report	48	*Printed.*
Registrar-General, Report	19	"
Registry Offices, Report	7	"
Sarnia, Typhoid Fever in, Cause of	71	*Printed.*
Secretary and Registrar, Report	18	"
Springer Township, Teaching French in, etc.	78	*Not Printed.*
Statutes, Distribution of	73	"
Statute Revision, Payments made	77	"
Subject, Charles, Correspondence	61	"
Surrogate Court, Orders-in-Council	56	"
Temiskaming and N. O. Railway, Report	46	*Printed.*
Temiskaming and N. O. Railway, Running Rights over, etc.	64	*Not Printed.*
Temiskaming and N. O. Railway, Elk Lake Branch	76	"
Timber Limits, Number of Sales of, since 1905	79	"
Toronto University, Report	17	*Printed.*
Typhoid Fever in Sarnia	71	"
Vegetable Growers' Association, Report	34	*Printed.*
Veterinary College, Report	30	"
Women's Institutes, Report	41	*Printed.*

LIST OF SESSIONAL PAPERS

Arranged in Numerical Order with their Titles at full length; the dates when presented to the Legislature; the name of the Member who moved the same, and whether ordered to be Printed or not.

CONTENTS OF PART I.

No. 1 — Public Accounts of the Province for the year ending 31st October, 1911. Presented to the Legislature, 19th February, 1912. *Printed.*

No. 2 — Estimates—Supplementary for the service of the Province for the year ending 31st October, 1912. Presented to the Legislature, 26th February and 28th March, 1912. *Printed.* Estimates for the year ending 31st October, 1913. Presented to the Legislature, 1st April, 1912. *Printed.*

CONTENTS OF PART II.

No. 3 — Report of the Minister of Lands, Forests and Mines for the year 1911. Presented to the Legislature, 9th April, 1912. *Printed.*

No. 4 — Report of the Bureau of Mines, for the year 1911. Presented to the Legislature, 15th March, 1912. *Printed.*

No. 5 — Report of the Inspector of Division Courts, for the year 1911. Presented to the Legislature, 1st March, 1912. *Printed.*

No. 6 — Report of the Inspector of Legal Offices, for the year 1911. Presented to the Legislature, 13th March, 1912. *Printed.*

CONTENTS OF PART III.

No. 7 — Report of the Inspector of Registry Offices, for the year 1911. Presented to the Legislature, 26th March, 1912. *Printed.*

No. 8 — Report of the Provincial Municipal Auditor, for the year 1911. Presented to the Legislature, 11th April, 1912. *Printed.*

No. 9 — Report of the Commissioners for the Queen Victoria Niagara Falls Park, for the year 1911. Presented to the Legislature, 18th March, 1912. *Printed.*

No. 10 — Report of the Inspector of Insurance and Registrar of Friendly Societies, for the year 1911. Presented to the Legislature, 1st March, 1912. *Printed.*

CONTENTS OF PART IV.

No. 11 Financial Statements made by Loan Corporations, Building Societies, Loaning Land Companies and Trust Companies, for the year 1911. Presented to the Legislature, 1st March, 1912. *Printed.*

No. 12 Report of the Minister of Public Works of the Province, for the year 1911. Presented to the Legislature, 1st March, 1912. *Printed.*

No. 13 Report of the Game and Fisheries Department, for the year 1911. Presented to the Legislature, 1st March, 1912. *Printed.*

CONTENTS OF PART V.

No. 14 Report on Highway Improvement in the Province, for the year 1911. Presented to the Legislature, 3rd April, 1912. *Printed.*

No. 15 Report of the Bureau of Labour, for the year 1911. Presented to the Legislature, 11th April, 1912. *Printed.*

CONTENTS OF PART VI.

No. 16 Report of the Minister of Education, for the year 1911. Presented to the Legislature, 1st March, 1912. *Printed.*

No. 17 Report of the Board of Governors of the University of Toronto, for the year ending 30th June, 1911. Presented to the Legislature, 22nd February, 1912. *Printed.*

CONTENTS OF PART VII.

No. 18 Report of the Secretary and Registrar of the Province, for the year 1911. Presented to the Legislature, 2nd April, 1912. *Printed.*

No. 19 Report upon the Registration of Births, Marriages and Deaths, for the year 1910-11. Presented to the Legislature, 1st March, 1912. *Printed.*

No. 20 Report of the Provincial Board of Health, for the year 1911. Presented to the Legislature, 1st March, 1912. *Printed.*

No. 21 Report on the Hospitals for the Insane, for the year 1911. Presented to the Legislature, 18th March, 1912. *Printed.*

No. 22 Report on the Hospitals for Idiots and Epileptics, for the year 1911. Presented to the Legislature, 18th March, 1912. *Printed.*

CONTENTS OF PART VIII.

No. 23 Report upon the Feeble-Minded, for the year 1911. Presented to the Legislature, 26th March, 1912. *Printed.*

No. 24 Report upon the Hospitals and Charities, for the year 1911. Presented to the Legislature, 25th March, 1912. *Printed.*

No. 25 Report upon the Common Gaols and Prisons, for the year 1911. Presented to the Legislature, 18th March, 1912. *Printed.*

No. 26 Report upon Neglected and Dependent Children, for the year 1911. Presented to the Legislature, 22nd March, 1912. *Printed.*

No. 27 Report upon the Operation of the Liquor License Acts, for the year 1911. Presented to the Legislature, 3rd April, 1912. *Printed.*

CONTENTS OF PART IX.

No. 28 Report of the Department of Agriculture, for 1911. Presented to the Legislature, 2nd April, 1912. *Printed.*

No. 29 Report of the Agricultural College and Agricultural Farm, for the year 1911. Presented to the Legislature, 3rd April, 1912. *Printed.*

No. 30 Report of the Ontario Veterinary College, for the year 1911. Presented to the Legislature, 2nd April, 1912. *Printed.*

No. 31 Report of the Ontario Agricultural and Experimental Union, for the year 1911. Presented to the Legislature, 3rd April, 1912. *Printed.*

No. 32 Report of the Fruit Growers' Association of Ontario, for the year 1911. Presented to the Legislature, 2nd April, 1912. *Printed.*

No. 33 Report of the Fruit Branch of the Department of Agriculture, for the year 1911. Presented to the Legislature, 2nd April, 1912. *Printed.*

No. 34 Report of the Ontario Vegetable Growers' Association, for the year 1911. Presented to the Legislature, 3rd April, 1912. *Printed.*

No. 35 Report of the Corn Growers' Association, for the year 1911. Presented to the Legislature, 2nd April, 1912. *Printed.*

CONTENTS OF PART X.

No. 36 Report of the Entomological Society of Ontario, for the year 1911. Presented to the Legislature, 2nd April, 1912. *Printed.*

No. 37 Report of the Ontario Bee-Keepers' Association, for the year 1911. Presented to the Legislature, 3rd April, 1912. *Printed.*

No. 38 Report of the Dairymen's Associations of Ontario, for the year 1911. Presented to the Legislature, 3rd April, 1912. *Printed.*

No. 39 Report of the Live Stock Associations of Ontario, for the year 1911. Presented to the Legislature, 22nd February, 1912. *Printed.*

No. 40 Report of the Farmers' Institutes of Ontario, for the year 1911. Presented to the Legislature, 22nd February, 1912. *Printed.*

No. 41 Report of the Women's Institutes of Ontario, for the year 1911. Presented to the Legislature, 22nd February, 1912. *Printed.*

CONTENTS OF PART XI.

No. 42 Report of the Horticultural Societies of Ontario, for the year 1911. Presented to the Legislature, 3rd April, 1912. *Printed.*

No. 43 Report of the Agricultural Societies of Ontario, for the year 1911. Presented to the Legislature, 22nd February, 1912. *Printed.*

No. 44 Report of the Bureau of Industries, for the year 1911. Presented to the Legislature, 2nd April, 1912. *Printed.*

No. 45 Report of the Inspectors of Factories, for the year 1911. Presented to the Legislature, 2nd April, 1912. *Printed.*

CONTENTS OF PART XII.

No. 46 Report of the Temiskaming and Northern Ontario Railway, for the year ending 31st October, 1911. Presented to the Legislature, 22nd February, 1912. *Printed.*

No. 47 Report of the Hydro-Electric Power Commission, for the year 1911. Presented to the Legislature, 11th April, 1912. *Printed.*

No. 48 Report of the Ontario Railway and Municipal Board, for the year 1911. Presented to the Legislature, 11th April, 1912. *Printed.*

CONTENTS OF PART XIII.

No. 49 Return from the Records of the General Elections in 1911. Presented to the Legislature, 7th February, 1912. *Printed.*

No. 50 Report of the Archivist of Ontario. Presented to the Legislature, 3rd April, 1912. *Printed.*

No. 51 Report on the State of the Legislative Library. Presented to the Legislature, 8th February, 1912. *Not Printed.*

No. 52 Report of the Game and Fisheries Commission, for 1909-11. Presented to the Legislature, 2nd April, 1912. *Printed.*

CONTENTS OF PART XIV.

No. 53 Statements of Provincial Auditor under Audit Acts. Presented to the Legislature, 26th March, 1912. *Printed.*

No. 54 Return to an Address to His Honour the Lieutenant-Governor of the Fourteenth day of February, 1912, praying that he will cause to be laid before this House a Return of copies of—

1. All correspondence which has passed since the 1st day of August, 1908, between the Government of the Province of Ontario or any member thereof or any person on its behalf, and the Government of the Dominion of Canada, or any member thereof or any person on its behalf, in reference to the Boundary between the Provinces of Ontario and Manitoba, through the territory now known as the District of Keewatin.

2. All correspondence which has passed since the 1st day of August, 1908, between the Government of the Province of Ontario or any member thereof or any person on its behalf, and the Government of the Province of Manitoba or any member thereof or any person on its behalf, in reference to the boundary between the Province of Ontario and Manitoba through the territory now known as the District of Keewatin.

3. All other papers in the possession of the Government in reference to the said boundary, including all reports in the possession of the Government in reference to the character and resources of the territory now known as the District of Keewatin. Presented to the Legislature, 20th February, 1912. *Mr. Rowell. Printed for Distribution.*

No. 55 Return to an Order of the House of the Fourteenth day of February, 1912, shewing—

1. What prosecutions have been instituted against parties in Northern Ontario for the illegal sale of liquor in Northern Ontario during the calendar year 1911.

2. The result of such prosecutions.

3. What amount the Government has received during the calendar year 1911 by way of fines imposed for the illegal sale of liquor in Northern Ontario. Presented to the Legislature, 20th February, 1912. *Mr. McDonald. Not Printed.*

No. 56 Copies of Orders-in-Council in accordance with the provisions of s-s. 6 of s. 78 of the Surrogate Courts Act. Presented to the Legislature, 22nd February, 1912. *Not Printed.*

No. 57 Copies of Orders-in-Council and Regulations required by section 27 of the Department of Education Act. Presented to the Legislature, 22nd February, 1912. *Not Printed.*

No. 58 Copy of Questions submitted to the Supreme Court, by the Government of Canada, relative to the *Ne Temere* decree and an Act to amend the Marriage Act. Presented to the Legislature, 27th February, 1912. *Not Printed.*

No. 59 Copy of an Order-in-Council of the Government of Canada, respecting the Boundary Line between Ontario and Manitoba. Presented to the Legislature, 27th February, 1912. *Not Printed.*

No. 60 Report upon Infant Mortality in the Province. (~~*Not*~~ *Presented.*)

No. 61 Return to an Order of the House of the 23rd of February, 1912, for a Return of all correspondence from August, 1st, 1911, to date, between the Attorney-General or any official of his Department and any person or persons of the Town of Chesley or elsewhere, respecting the prosecution, conviction and fining of one Charles Subject by Magistrate Montgomery for an infringement of the provisions of the Liquor License Act. Presented to the Legislature, 1st March, 1912. *Mr. McDonald. Not Printed.*

No. 62 Merchant's report on the condition of English-French Schools in the Province. Presented to the Legislature, 6th March, 1912. *Printed for Distribution.*

No. 63 Copy of an Order-in-Council increasing the commutation paid to His Honour A. D. Hardy, Judge of the County Court of Brant. Presented to the Legislature, 13th March, 1912. *Not Printed.*

No. 64 Return to an Order of the House of the Twenty-sixth day of February, 1912, for a Return of copies of: 1. All correspondence between the Government or any member or official thereof or the Temiskaming and Northern Ontario Railway Commission or any member or official thereof and the Grand Trunk Pacific Railway Company or the Grand Trunk Railway or any official of either of them with respect to.

(*a*) The acquisition of running rights over the Temiskaming and Northern Ontario Railway;

(*b*) The leasing, running, or operating of dining, cafe, or buffet cars on the tracks of the Temiskaming and Northern Ontario Railway.

2. All agreements between the Government of Ontario or any department thereof or the Temiskaming and Northern Ontario Railway Commission and any other person or corporation with respect to:

(*a*) The acquisition of running rights over the Temiskaming and Northern Ontario Railway;

(*b*) The leasing, running, or operating of dining, cafe, or buffet cars on the tracks of the Temiskaming and Northern Ontario Railway. Presented to the Legislature, 19th March, 1912. *Mr. Rowell. Not Printed.*

No. 65 Interim Report on Laws, relating to the liability of employers to make compensation to their employees for injuries received in the course of their employment which are in force in other countries and as to how far such laws are found to work satisfactorily. Presented to the Legislature, 29th March, 1912. *Printed.*

No. 66 Agreement made by and between the Kinleith Paper Company, Limited, of the first part, and His Majesty the King, represented by the Honourable the Treasurer, of the second part, conditioned for the supply of printing paper for the use of the Province. Presented to the Legislature, 20th of March, 1912. *Printed.*

No. 67 Agreement made by and between the Montrose Paper Mills, Limited, of the first part and His Majesty the King, represented by the Honourable the Treasurer, of the second part, conditioned for the supply of printing paper for the use of the Province. Presented to the Legislature, 20th March, 1912. *Printed.*

No. 68 Agreement made by and between the Georgetown Coated Paper Mills, Limited, of the first part, and His Majesty the King, represented by the Honourable the Treasurer, of the second part, conditioned for the supply of printing paper for the use of the Province. Presented to the Legislature, 20th March, 1912. *Printed.*

No. 69 Bulletin of the Ontario Hospitals for the Insane in the interests of Psychiatry. Presented to the Legislature, 21st March, 1912. *Printed for Distribution.*

No. 70 Report on James Bay Survey Explorations, Cochrane to James Bay, June 9th to September 12th, 1911. Presented to the Legislature, 21st March, 1912. *Printed for Distribution.*

No. 71 Report of special investigation into the cause of Typhoid Fever in the Town of Sarnia. Presented to the Legislature, 21st March, 1912. *Printed.*

No. 72 A Return to an Order of the House of the 14th February, 1912, for a Return shewing: 1. All complaints received by the Government since the first day of January, 1911, in reference to the participation of any officers, officials or employees of the Government in political contests or taking part in political matters in this Province.

2. All correspondence arising out of or incidental to such complaints.

3. All correspondence passing between the Government or any Department or Member thereof and any officer, officials, or employees of the Government with reference to the participation of such officers, officials or employees in political contests or taking part in political matters in this Province since the first day of January, 1911. Presented to the Legislature, 22nd March, 1912. *Mr. Mageau. Not Printed.*

No. 73 Statement of the distribution of Revised and Sessional Statutes. Presented to the Legislature, 25th March, 1912. *Not Printed.*

No. 74 Return to an Address to His Honour the Lieutenant-Governor of the 14th February, 1912, praying that he will cause to be laid before this House a Return of copies of all correspondence between the Government of the Province of Ontario or any member thereof, or any person on its behalf, and the Government of the Dominion of Canada, or any member thereof, or any person on its behalf, with reference to the construction of permanent highways in the Province or grants to aid in such construction. Presented to the Legislature, 26th March, 1912. *Mr. Ferguson (Kent). Not Printed.*

No. 75 Return to an Order of the House of the 27th February, 1912, showing:—1. How many barrels of apples were produced in each year in each of the 45 Demonstration Orchards instituted by the Government. 2. What was the sale price *per* barrel of the apples from each of the said Demonstration Orchards. 3. What are the names and qualifications of the several orchard demonstrators now in the employ of the Government. Presented to the Legislature, 26th March, 1912. *Mr. Anderson (Bruce). Not Printed.*

No. 76 Return to an Order of the House of the 8th March, 1912, for a Return of copies of all correspondence between any person and the Government or any member thereof with respect to the construction of a Branch of the Temiskaming and Northern Ontario Railway to Elk Lake or further, with memorandum of dates upon which delegations waited upon the Government or any member thereof in support of the construction of the said Branch; also all surveyors' or other reports received by the Government with respect to the feasibility and cost of construction of the said Branch and all other papers or documents bearing upon the question of the construction of the said Branch. Presented to the Legislature, 27th March, 1912. *Mr. Mageau. Not Printed.*

No. 77 Return to an Order of the House of the 23rd February, 1912, for a Return shewing: The names of all persons to whom payments have been made in connection with the present Revision of the Statutes, and the total amount paid to each, and the services or other matter in respect of which such payments were made. Presented to the Legislature, 29th March, 1912. *Mr. Proudfoot. Not Printed.*

No. 78 Return to an Order of the House of the 15th March, 1912, for a Return of copies of all correspondence since the first day of January, 1911, between the Minister of Education, the Deputy-Minister of Education or any Official of the Department of Education and any School Trustee, Board of Trustees, or any person in the Township of Springer, with respect to the character of teaching in the Schools of the said Township, with respect to the teaching of French in the said Schools, with respect to the employment of teachers in the said Schools, or with respect to the giving or withholding of grants from the said Schools or any of them. Presented to the Legislature, 1st April, 1912. *Mr. Marshall. Not Printed.*

No. 79 Return to an Order of the House of the 28th day of February, 1911, for a Return shewing: (*a*) The number of sales of timber limits which have taken place in each year since 1905; (*b*) The location and acreage of each limit sold; and (*c*) The name of the purchaser in each case; (*d*) The price paid per acre, or otherwise, in each case; (*e*) The berth, or area of each berth, which had been under permit previous to the sale, with the original date of the permit; (*f*) The area of each berth damaged by fire previous to the sale; (*g*) The berth, or berths, which were virgin territory; (*h*) The reasons which caused each timber sale to be held from 1905 down to date; (*i*) The number of permits to cut timber current in the season of 1904-5; the number of permits to cut timber current in the season of 1910-11. Presented to the Legislature, 3rd April, 1912. *Mr. MacKay. Not Printed.*

No. 80 Report of Proceedings of the Twelfth Canadian Conference of Charities and Correction. Presented to the Legislature, 10th April, 1912. *Printed for Distribution.*

No. 81 Report of the Sixth Annual Meeting of the Canadian Hospital Association. Presented to the Legislature, 10th April, 1912. *Printed for Distribution.*

No. 82 Return to an Order of the House of the 14th February, 1912, for a Return of copies of all correspondence passing in the years 1905 and 1906 between the Attorney-General or any officer or official of his Department and Mr. J. W. Curry, K.C., Crown Attorney of the City of Toronto, or his successor, with reference to the prosecution of any alleged combines and all briefs, statements or other documents furnished by Mr. Curry to the Attorney-General or any officer or official of his Department with reference to any of the said alleged combines. Presented to the Legislature, 10th April, 1912. *Mr. Elliott. Not Printed.*

No. 83 Return to an Order of the House of the 9th April, 1912, for a Return of copies of (1) All correspondence between the Government or any Minister or Officer thereof and any person, association, board or organization whatsoever, between the 1st day of July, 1911, and the present date; and also (2) All protests, resolutions, objections or written statements of any kind whatsoever received by the Government or any Minister or Officer thereof, between the said dates with respect to: (*a*) The conduct of one S. J. Dempsey, in his official capacity as Police Magistrate or as Crown Lands Agent; (*b*) The participation of the said S. J. Dempsey in the Federal Election contest in South Renfrew; (*c*) The participation of the said S. J. Dempsey in the Provincial Election contests held in December, 1911. Presented to the Legislature, 12th April, 1912. *Mr. McQueen. Not Printed.*

Auditor's Report

ON

PUBLIC ACCOUNTS

FOR THE

Twelve Months Ending October 31st

1911

Pursuant to the provisions of sub-section 2 of section 13 of the Audit Act as amended by section 6, chapter 10, 9 Edward VII

PRINTED BY ORDER OF
THE LEGISLATIVE ASSEMBLY OF ONTARIO

TORONTO:
Printed and Published by L. K. CAMERON, Printer to the King's Most Excellent Majesty
1912.

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WILLIAM BRIGGS,
29-37 Richmond Street West,
TORONTO.

To His Honour, Sir John Morison Gibson, K.C.M.G., *a Colonel in the Militia of Canada, etc., Lieutenant-Governor of the Province of Ontario.*

May it Please Your Honour:

The undersigned has the honour to present to Your Honour statements of the Auditor pursuant to the provisions of sub-section 2 of section 13 of the Audit Act as amended by section 6, chapter 10, 9 Edward VII.

Respectfully submitted,

A. J. Matheson,

Provincial Treasurer.

Treasury Department, Ontario,

Toronto, February 5th, 1912.

AUDITOR'S OFFICE,

Toronto, February 5th, 1912.

SIR,—I have the honour to submit for the information of the Legislative Assembly pursuant to the provisions of sub-section 2 of 13 and section 26 of the Audit Act as directed by a minute of the Treasury Board dated the 29th day of October, 1909, as follows:

(A) Statement of reports to Council and cheques issued for which the Auditor refused to certify.
(B) Statement of Special Warrants issued.
(C) Statement of expenditures in excess of appropriations.

J. CLANCY,
Auditor.

HON. A. J. MATHESON, K.C., M.P.P.
Provincial Treasurer.

INDEX.

Page

A.—Treasury Board Over-Rulings:—

1. S. J. Adams 9-13
2. P. W. Sothman 13-15
3. Sophia Molson Estate 15-20
4. John McIntosh Estate 29-32

B.—Special Warrants 33

C.—Treasury Board Minutes 34-35

A

TREASURY BOARD OVER-RULINGS.

Re S. J. ADAMS.

Toronto, Ont., October 20, 1910.

Dear Mr. Clancy,—I am sending you herewith the papers regarding the s½ of lot 7 in Con. 5 Robillard, in which a refund for $100.00 was asked, and in which you did not see your way to certify that a cheque might issue. I am sending you the papers and our memo. so that you will have all necessary information to prepare any statement you desire.

The Minister asks that this matter be taken up so that we may deal with it some time next week.

We shall be obliged by your giving us your memorandum as soon as possible.

Yours truly,

AUBREY WHITE,

Deputy Minister.

JAS. CLANCY, ESQ.,

Provincial Auditor,

Parliament Bldgs., City.

Memorandum for the Auditor for $100 Refund to S. J. Adams.

The land in question, S.½ 7 in the 5th Concession Robillard, was on 10th Oct., 1905, allowed to S. J. Adams, who subsequently sent in Military Certificate No. 11,020 in payment. This certificate was originally issued to Aylmer D. Fraser, who sold it to Samuel T. Crane for $50, who sold it to J. W. Bolger for $25, who sold it to Samuel J. Adams for $80, according to the assignments filed.

This assigned certificate was accepted by the Department and credited to Mr. Adams in lieu of cash payment for the land.

On 12th February, 1908, Jos. V. McCann made application for the land. The Homestead Inspector reported improvements consisting of two acres chopped and burned in the summer of 1905 by Adams and two days work in 1907, value of improvements $20; that Adams was reported to be working on the railway some place north of Englehart.

On 7th March, 1908, the Department wrote the Homestead Inspector to make enquiry and report whether the applicant McCann was likely to go into immediate occupation and comply with the regulations in the event of the land being allowed to him: that the present holder of the lot, Adams, had paid for it in full with an assigned military certificate, and the department, therefore, was not disposed to cancel his claim without giving him notice, if his address could be ascertained.

On the 11th April, 1908, the Inspector replied that McCann was prepared to go into immediate occupation, and that he was willing to take the place upon the following conditions: "That he will pay into the Department to the credit of Adams $100, that is, providing that the place be still paid up in full to him (McCann) and the $20 will pay Adams for the work he did."

This proposal of McCann's seemed an equitable one under the circumstances, and on the 13th April, 1908, a ruling was made cancelling the entry to Adams and allowing the land to McCann.

On the 3rd June, 1908, the Agent forwarded $100 paid to him by McCann, to the credit of Adams. This amount was placed on deposit, pending information as to Adams' Post Office address, which the Agent was instructed to ascertain.

On the 15th June, 1908, a ruling was made to carry out a sale to McCann, applying the military certificate filed by Adams and to refund to Adams the $100 on deposit. A sale was accordingly entered in the name of McCann and the certificate cancelled and applied as payment in full ($80), the $100 remained on deposit.

On 26th April, 1909, S. J. Adams wrote the Department from West Toronto asking for a refund of the $100, and the attached requisition was made upon the Treasury Department on the 28th April, 1909.

It will be seen from the above statement of the case that Mr. Adams paid $80 cash for the military certificate at the time he obtained it; that the Department, in accordance with the usual practice, was prepared to credit him with the certificate as $80 on the purchase of the land; that Mr. McCann, being anxious to have his application dealt with promptly, offered to deposit $80 as the value of the certificate and $20 for improvements to the credit of Adams, upon the condition that he (McCann) should have the certificate placed to his credit.

The land now stands in the name of McCann paid for in full, and as the certificate has been cancelled and applied, it is not now practicable to return it to Adams instead of refunding him the $80 paid in by McCann.

Toronto, October 26th, 1910.

AUBREY WHITE,
D.M.

Audit Office.

TORONTO, May 20th, 1909

DEAR SIR,—Referring to your memo of the 12th inst., stating the case with some fulness in connection with the sale of south ½ lot 7, con. 5, Township of Robillard, to S. J. Adams in 1905, and subsequently to Joseph V. McCann.

As the sale by the Department to McCann in no way effected any interest that Adams might have in the land, by reason of having paid the purchase price of $80.00 with a Military certificate or otherwise, the transaction with McCann, so far as that is concerned, may properly be dismissed as not having the slightest bearing upon the case under consideration, nor has the price paid by Adams for the Military certificate the remotest bearing upon the case, and it is quite immaterial whether he paid $1.00 or $80.00 for the certificate. The payment of the purchase money is only part compliance with the statute and regulations in order to acquire the land, and the performance of the settlement duties is just as essential in the case as the payment of the purchase money. The correspondence would seem to make it clear that Mr. Adams did not comply in respect to the latter, and his claim was

accordingly cancelled. Having regard to this and to the provisions of Section 24 of the Public Lands Act, the question of returning the Military certificate or the money value to Mr. Adams cannot arise.

Yours truly,

J. CLANCY,
Auditor

AUBREY WHITE, Esq.,
Deputy Minister of Lands, Forests and Mines.

Audit Office.

TORONTO, October 25th, 1910.

DEAR SIR,—I am in receipt of your letter of the 20th inst. with papers in connection with the S.½ of lot 7, con. 5, township of Robillard, which is the subject of a request for a refund of $100.00 to one S. J. Adams, who purchased and paid for the lot subject to the performance of the required settlement duties before receiving his Patent.

I have little to add to my letter of May 20th, 1909, more than to further direct attention to the bulk of irrelevant matter brought into this case as set out in your memo. of May 12th, 1909, which would seem difficult to reconcile with some of the facts as therein stated.

It is more than once stated in the most definite and explicit manner that Adams purchased the land in question and paid for it in full with a Military Certificate which was accepted by the Department and credited to him (Adams) at $80.00 in lieu of cash for the land at the price of 50c. per acre. That being so, Adams could not possibly have the slightest further interest in the Military Certificate or what became of it, as it then became the property of the Province and Adams became the rightful owner of the land subject to the performance of the settlement duties. Adams entered into the possession of the land, and it is stated that he made improvements on it to the value of $20.00, but failed to comply with the required settlement duties, and as a consequence the Department treated his interest in the land as forfeited and cancelled the entry, and now a refund to Adams of $100 is asked, $80 being the amount allowed him by the Department for the Military Certificate in lieu of the cash payment in full for the land and $20.00 for his improvements.

This, in short, is the whole case, in so far as it has the slightest relevancy to Adams or to the Refund now asked.

May I be permitted to respectfully ask, why drag in the history of the Military Certificate with the varying prices paid for it by the different holders, including Adams, when the sole question to be considered by the Department when taking it from Adams at a cash value of $80.00, or any other price agreed upon, "Was he properly in possession of the Certificate to enable him to dispose of it?" Why introduce McCann as coming forward and depositing $100.00 to the credit of Adams, and giving the impression that he was purchasing Adams' claim in the land, when, as a matter of fact, McCann had not even mentioned the matter to Adams, and when it was well known that the only ground upon which the land could be allowed to McCann as a purchaser from the Province was by reason of Adams having forfeited any claim he might have in the land, as had been declared by the Department in cancelling his entry?

Why the pretended solicitude of McCann to scrupulously guard the claim of Adams by making it a condition of his taking the land that he should be allowed

to deposit $100.00 to the credit of Adams, when he was at that moment trying to prove to the Department that Adams had no claim? And why dwell upon the equities of a case in which the Department had decided by its own act that there were no equities involved?

It must be assumed that the Honourable the Minister of Lands, Forests and Mines acted properly and legally in cancelling the entry of Adams and, relying upon this, there could not possibly be any conceivable ground to justify a refund to him.

There has not been any objection raised, nor is there any now raised, to the payment to Adams for his improvements.

Yours truly,

J. CLANCY,
Auditor.

AUBREY WHITE. Esq.,
Deputy Minister of Lands and Forests.

Memorandum for the Treasury Board.

1. The purpose for which the expenditure is required: To refund to Mr. S. J. Adams the $100 deposited for his benefit by Joseph V. McCann.

2. The appropriation to which the expenditure is chargeable: Refunds.

3. Annexed hereto are two letters of the Auditor. One of date the 25th of October, 1910, and the other of date the 20th of May, 1909, which set out the objections of the Auditor.

4. The answer to the objections of the Auditor is stated in the annexed memorandum of the Deputy Minister.

F. COCHRANE,
Minister.

Toronto, December 7th, 1910.

Copy of a Minute of the Treasury Board, dated the 9th day of February, A.D. 1911.

The Treasury Board has had under consideration the memorandum of the Honourable the Minister of Lands, Forests and Mines, dated 7th December, 1910, under Clause (c) of sub-section 13 of "The Audit Act," as amended by Chapter 10, 9 Edward VII., with reference to a refund of the sum of One hundred dollars ($100) to Mr. S. J. Adams deposited for his benefit by Jospeh McCann in connection with the purchase by the latter of the south half of Lot 7 in the 5th Concession of the Township of Robillard, in the District of Nipissing. Requisition for the payment of this refund was made by the Minister's Department on 28th April, 1909, and the Provincial Auditor has refused to certify to the issue of a cheque therefor. The objections of the Auditor are contained in two letters, one of date 20th May, 1909, and the other of date 25th October, 1910, and the answer to said objections is stated in the memorandum of the Deputy Minister of Lands and Forests of 26th October, 1910.

It appears that the land in question was on 10th October, 1905, allowed to Mr. Adams, who subsequently sent in an assigned military certificate No. 11020

in payment, which was accepted by the Department and credited to him in lieu of a cash payment. Adams went into occupation of the land and made improvements thereon to the value of $20. Subsequently, it was reported that he had ceased to occupy the lot and was working on the railway some place north of Englehart.

On 12th February, 1908, one, Joseph McCann, made application for the land and forwarded $100 in payment therefor upon the condition that $80 was to go to Adams in lieu of the military certificate deposited by him and $20 for his work on the place. On 13th April, 1908, the entry to Adams was cancelled and the land allowed to McCann. On 15th June, 1908, a ruling was made to carry out a sale to McCann and applying the military certificate filed by Adams in payment, and directing a refund to Adams of the $100 on deposit.

The Board is of opinion that, in dealing with the public, the Crown should act fairly and should not seek to appropriate money that has been inadvertently or unnecessarily paid into its hands, or for which it is not in a position to give any value, real or nominal, and that Mr. Adams is properly entitled to the refund applied for by him,' especially as there is Legislative authority for the payment thereof under Vote 84 of the estimates for the current fiscal year. Under the circumstances the Board directs that a cheque for the above mentioned refund be issued forthwith.

Certified,

J. Lonsdale Capréol,

Clerk, Treasury Board.

RE P. W. SOTHMAN.

Normal Model School,

Toronto, February 17th, 1911.

Re Coat Destroyed by Fire in the Model School.

Mr. P. W. Sothman's son attends the Model School and is in the First Form. On Jan. 23rd, 1911, at 2.15 in the afternoon, his coat, which was hanging on his own peg in the cap-room, was found to be on fire. The owner of the coat had not been in the cap-room after 1.30 of the day mentioned. A paper had been crushed, set on fire, and then placed in one of the pockets of the overcoat; but, whether the fire had been started by a boy of the school or by some outside party could not be determined, although a thorough examination was made at the time.

The cap-room is situated in such a place that it cannot very well be locked up, as the East door of the Normal School must remain open during the day.

There is a precedent for making this payment. Some years ago several fur caps were stolen from the cap-room of the Model School by tramps, and the Government made payment for these to the extent of over Twenty Dollars.

The foregoing is respectfully submitted.

A. McIntosh.

Audit Office.

TORONTO, February 24th, 1911.

DEAR SIR,—Referring to voucher 2,835 and the claim of Mr. P. W. Sothman for a coat destroyed by fire at the Normal School, Toronto. The sum involved is, indeed, very small, but it seems to me that the case should not on that account receive treatment different from a claim that might be larger. It is not, as I understand, contended that the fire was caused by reason of any defect in the building or equipment, or by reason of negligence on the part of any official of the Department, and it is therefore assumed, as must be the case, that it arose from the act of some persons, including the owner of the coat, unknown to the Department.

Nor is it, as I understand, contended that the Province has undertaken to be an insurer against losses arising under such conditions. I have, therefore, to respectfully submit that there would not appear to be any ground for the claim in question, legal or equitable.

Yours truly,

J. CLANCY,
Auditor.

A. H. U. COLQUHOUN, ESQ.,
Deputy Minister of Education.

Copy of a Minute of the Treasury Board, dated the 9th day of March, A.D. 1911.

The Provincial Auditor having refused to certify to the issue of a cheque for the sum of Eight dollars ($8) in favour of P. W. Sothman, 228, Rusholme Road. Toronto, such sum being to recoup Mr. Sothman for the loss of his son's coat, which was destroyed by fire while in the coat-room at the Toronto Model School, as requested by the Department of Education, the Minister of Education submits the sufficiency of the Auditor's objections to the Treasury Board for determination, as provided by clause c of sub-section 1, section 13, of the Audit Act, as amended by Chapter 10, 9 Edward VII.

This expenditure is chargeable to Contingencies Vote No. 17, Estimates 1910-11.

The Auditor's objections are as follows:

(1) That as the fire was not caused by reason of any defect in the building or equipment, or by reason of negligence on the part of any official of the Department, it was to be assumed that it was caused by the act of some person, including the owner of the coat, unknown to the Department: and

(2) That the Province does not insure against losses arising under such conditions.

In reference to the Auditor's objections, the Honourable The Minister of Education submits:

(1) That the fire occurred an hour after the owner of the coat had placed it in a room provided for the purpose, and during the whole of that time he had been pursuing his studies in the Class-room.

(2) That the fire was caused by someone placing paper in the pocket of the coat and setting the same on fire, and it is evident from the damage done to the

coat that the fire could have been in progress but for a short time before it was discovered, and therefore it would be practically impossible for the boy to have had any part in starting it.

(3) While perhaps the Department may not be legally liable for such losses, the Minister feels that there is a moral obligation to see that no loss is occasioned to the parents where the rules of the School are complied with, and the clothing of the pupils placed in the room set apart for that purpose.

A precedent is also established by the fact that some fifteen years ago the Province paid about $28.00 for furs stolen from the cloak-room.

The Treasury Board, having considered the Auditor's objections, and the statement of the Honourable the Minister of Education with reference thereto, as set out above, concur in the opinion of the Minister, that, while there may be no legal liability, there is a moral obligation to see that there is no loss to the parents where the rules of the school are complied with, and under the circumstances the Board direct that a cheque for the sum of Eight dollars ($8) be issued forthwith for the purpose above mentioned.

Certified,

M. CURREY,
For Clerk, Treasury Board.

RE SOPHIA MOLSON ESTATE.

Memorandum for the Treasury Board under section 13 of the Audit Act of 1908 as amended by 9 Edward VII, cap 10, sec. 3.

In the Matter of the Succession Duty Act, and in the Matter of the Estate of the late Sophia Molson.

The late Sophia Molson died on the 25rd December, 1908.

Delay arose in connection with the administration of the estate as a result of claims lodged with the administrator the will had to be construed by the Court, and it was only some weeks since that the administrator was able to take out an appointment for the audit of his accounts on the 14th instant.

Under section 15 (1) of the Succession Duty Act of 1909 the succession duty on this estate became due at the date of the death and payable within eighteen months thereafter, viz., on the 23rd June, 1910.

Under section 11 (2) of the said Act the Treasurer may accept a sufficient sum as security for the payment of the duty and may in such case pay the executor interest thereon at a rate not exceeding three per cent. per annum upon so much thereof as from time to time exceeds the amount of duty which has became payable under the Act.

On the 15th June, 1910, in pursuance of the provisions of the last above referred to subsection, the Treasurer accepted as security the sum of $1.500. The attached statement shows the amount of duty which became payable on the 23rd June, 1910, to have been $861.07.

Interest at the rate of 3 per cent. per annum accrued due on the deposit of $1,500 from the date of the said deposit, 15th June, 1910, to the 23rd June, 1910, to the amount of 99c. The difference between the amount of the deposit and interest and the amount of succession duty as ascertained leaves the sum of $639.92 standing to the credit of the executor in the hands of the Treasurer as of the 23rd June, 1910.

Application is now made for a refund, and it is submitted that in the true construction of section 11 (2) the executor is entitled to the allowance of interest on the balance remaining in the hands of the Treasurer at the rate of 3 per cent. per annum so long as the money so remains.

The interest on $639.92 at 3 per cent per annum from the 23rd June, 1910, to the 11th March, 1911 (261 days) is $13.73, and the total amount to be refunded under the provisions of section 11 (2) is $653.65.

The Auditor has refused to certify that a cheque for this amount may issue.

(1) The expenditure is required for the purpose of refunding to the executor the amount to which he is entitled after paying the amount found due for succession duty as of 23rd June,1910.

(2) The expenditure is chargeable to Vote 86.

(3) The objections taken by the Auditor are set out in the correspondence, a transcript of which follows.

J. B. McLeod,
Solicitor to the Treasury.

Toronto, 10th March, 1911.

James Clancy, Esq.'
Auditor,
Parliament Buildings.

Dear Sir,—Referring to voucher 3092 of 1910-11, containing my letter to the Assistant Treasurer of the 13th ultimo, (with accompanying statement), recommending a refund to the administrator of the above estate of the sum of $653.65, I shall be glad if you will kindly let me know what objection is taken to the issue of this cheque.

Yours truly,

J. B. McLeod
Solicitor to the Treasury

STATEMENT OF SUCCESSION DUTY.

Sophia Molson Estate (Northumberland and Durham).

Domicile, Ontario. Date of death, December 23, 1908. Duty payable, June 23, 1910.

Value of assets as sworn		$17,340 84
Value of assets as realized		18,416 08
Less dividends accrued after death		437 50
		$17,978 58
Deductions		274 76
Net estate		$17,703 82
Exemptions	$482 50	
Dutiable estate	17,221 32	
		17,703 82
Succession duty, at 5%	$861 07	
Received on deposit 15th June, 1910	.....	$1,500 00
Interest on $1,500 at 3% per annum from 15th June, 1910, to 23rd June, 1910 (8 days)	.....	0 99
Interest on balance of $639.92 from 23rd June, 1910, to 11th March, 1911 (261 days)	.....	13 73
Refund 15th February, 1911	653 65	.....
	$1,514 72	$1,514 72

Toronto, 10th February, 1911.

Audit Office.

Toronto, March 20th, 1911.

DEAR SIR,—I have your letter of the 10th inst, and regret that some days absence from the office prevented me from taking this matter up at an earlier date.

According to your statement the amount of duty payable by this estate, without interest, on June 23rd, 1910, was $861.07, and a deposit of $1500, was made with the Treasury Department as security for payment of the duty on June 15th, 1910, eight days prior to the expiration of the eighteen months, thereby creating an excess, to be refunded to the Executors, of $638.93. To this is added the sum of 99 cents being interest on the $1500, from the date of deposit to the expiry of the eighteen months, making in all to be refunded, as on June 23rd, 1910. $639.92.

Your statement shows a further allowance of interest of $12.41 on the 639.92 from June 23rd, 1910, (the expiry of the time within which the duty became, under the Act, payable) to the 15th of February, 1911.

Having regard to the ruling of the Treasury Board in respect to the A. H. Allan estate, I am unable to understand upon what ground interest could be allowed in this case after the expiration of the eighteen months. The ruling of the Board in the Allan estate is in part as follows:

> The Board is of opinion that the duty becomes payable by the Succession Duty Act within eighteen months from the date of death, and that the Executors of the estate were not compellable to pay the duty until the last day of such period and may be allowed interest at a rate not exceeding 3 per cent. per annum by the Provincial Treasurer upon the amount deposited by them as security for payment of duty or upon any amount prepaid for duty, from the date of deposit or prepayment until the expiry of the time within which the duty becomes under the Act payable. In support of this ruling the Board refers to section 11 (2).

It will be observed that this ruling not only dealt with the particular case then under consideration but went further and laid down a general rule limiting the payment of interest on deposits made as security for payment of duty and on amounts prepaid for duty to the period from the date of such deposit or prepayment to the expiry of the eighteen months when the duty became payable. It will be further observed that section 11 (2) of the Succession Duty Act is relied upon by the Board as sole authority in support of the ruling and the distinct limitation with respect to the payment of interest in such cases.

Yours truly,

J. CLANCY.
Auditor.

J. B. MCLEOD, ESQ.
Solicitor to the Treasury.

Toronto, March 20th, 1911.

JAMES CLANCY, ESQ.,
Auditor,
Parliament Buildings.

DEAR SIR,—I have your letter of to-day's date and note your view that the decision of the Treasury Board in the A. H. Allan estate, although made under a set of circumstances different from that which obtains in the one now under review, is binding in all cases to operate as a preventive of the allowance of interest after the expiration of eighteen months from the death. In view of the clear language of section 11 (2) this is an opinion from which I must respectfully dissent.

Yours truly,

J. B. MCLEOD,
Solicitor to the Treasury.

Audit Office.

Toronto, March 21st, 1911.

DEAR SIR,—I am in receipt of your letter of the 20th inst, in which you attribute to me the opinion that the decision of the Treasury Board in the A. H. Allen estate is binding in all cases to operate as a preventative of the allowance of interest after the expiration of eighteen months from the death of the deceased, and you conclude by saying:

"In view of the clear language of section 11 (2) this is an opinion from which I must respectfully dissent."

Permit me to say that I expressed no opinion one way or the other as to how far the decision of the Treasury board in the Allan estate is binding in all cases respecting allowances for interest. I merely stated that having regard to that decision I was unable to understand upon what ground interest could be allowed in the case now under consideration but I regret to find that I have not so far received any light on the subject.

Permit me to further state that it would now seem too late to enter upon a discussion as to what may or may not be the clear language of section 11 (2), that was undertaken and determined by the Treasury Board in the Allan estate, in terms so explicit and unequivocal as to leave no room for doubt as to the clear and unmistakable direction of the Board. That decision was sought and obtained at your instance and I submit that it is now quite immaterial whether the Treasury Board was right or wrong in its interpretation of section 11(2) or whether or not it exceeded its powers in going further than might have been considered necessary for the purposes of the Allan case in laying down a general rule limiting the conditions under which interest may be allowed. In any event the decision of the Board stands and must be followed.

Yours truly,

J. CLANCY,
Auditor.

J. B. MCLEOD, ESQ.,
Solicitor to the Treasury.

Toronto, 22nd March, 1911.

James Clancy, Esq.,
Auditor,
Parliament Buildings, Toronto.

Dear Sir,—Referring to your letter of the 21st instant, the Treasury Board was dealing in the Allan case, only with the facts which were there presented, and it is quite obvious that its ruling there would not be intended to cover every possible case that might arise under different circumstances. Section 11 (2) clearly says that the Treasurer may allow interest on so much of the deposit as from time to time exceeds the amount of duty which has become payable under the Act. On the day after the expiration of the eighteen months, there was clearly an excess of deposit over the amount of duty payable to the Crown, and upon this the Honourable the Treasurer is willing to allow interest. The best course seems to be to ask the Treasury Board for its ruling on this case, therefore, I am preparing the papers and will forward you a copy to-day or to-morrow.

Yours truly,

J. B. McLeod,
Solicitor to the Treasury.

The question is submitted to your Honourable Board for your consideration.

J. B. McLeod,
Solicitor to the Treasury.

Toronto, 23rd March, 1911.

Audit Office.

Toronto, March 23rd, 1911.

Dear Sir,—I have your letter of the 22nd inst. I presume it is the intention to ask the Treasury Board to amend the Order in the Allan Case of the 15th of July, 1909, by striking out the general words limiting the payment of interest to the expiration of the eighteen months. Under such circumstances there would appear to be no objection to allowing interest after the expiration of the eighteen months in the present or possibly any other case.

Yours truly,
J. Clancy,
Auditor.

J. B. McLeod, Esq.,
Solicitor to the Treasury.

Toronto, 23rd March, 1911.

James Clancy, Esq.,
Auditor,
Parliament Buildings.

Dear Sir,—I have your letter of to-day's date. It is not intended to ask the Treasury Board to make any amendment of its order in the A. H. Allan estate. I am sending to-day to the Treasury Board a memorandum in connection with the Sophia Molson estate, a copy of which I enclose.

Yours truly,

R. E. M. Meighen,
Assistant Solicitor to the Treasury

Copy of a Minute of the Treasury Board, dated the 23rd day of March, A.D. 1911.

The Provincial Auditor having refused to certify the sum of $653.65 to the Sophia Molson estate as requested by the Solicitor to the Treasury, the Treasury Department has submitted the sufficiency of the Auditor's objection to the Treasury Board for determination as provided by paragraph (c) sub-section 1, section 13 of "The Audit Act" as amended by 9 Edward VII. Cap. 10, sec. 3.

Upon consideration of the facts as set out in the statement to the Treasury Board by the Solicitor to the Treasury, the Board is of opinion and directs that interest at three per cent. per annum be paid on moneys to be refunded to the Sophia Molson estate in excess of the amount required for duty after the period of eighteen months up to the time of the refund and that a cheque be issued for the sum of six hundred and fifty-three dollars and sixty-five cents. ($653.65) to the administrator of the said estate forthwith.

Certified,

M. Currey,
For Clerk Treasury Board.

Re JOHN M'INTOSH ESTATE.

Memorandum for the Treasury Board under the Audit Act, 1908.

I hand you herewith for your ruling a statement showing the adjustment of the succession duty on the above estate. from which it appears that the executors are entitled to a refund of succession duty to the amount of $110.17.

This testator died on the 1st August, 1903, leaving an estate of the net value of $11,310.54. On the 23rd December, 1903, the then Solicitor to the Treasury issued a statement demanding payment of succession duty to the amount of $535.52, showing the net amount that would be accepted, after the usual allowance for prepayment, to be $517.95, without showing the present value of the bequest of the farm to James McIntosh for the seven year period mentioned in the will, subject to the conditions and payment of $100.00 a year rent after the first year, and also

without showing the present value of the reversionary interests in the proceeds of the farm and the residuary estate in the hands of the executors, upon which such reversionary interests the executors were entitled to defer payment until the interests had fallen into possession at the expiration of seven years. The amount demanded by the statement, namely $517.95, was paid on the 28th December, 1903, under protest.

The wording of that portion of the will under which claim is now made for refund is as follows:

> It is my will that my executors shall lease my farm to my nephew James, son of my brother Donald, for seven years. . . . . At the end of the seven years it is my wish that my executors sell him the farm.....
>
> All the residue of my estate that may be in the hands of my executors when my farm is sold is to be divided equally amongst my brothers, Donald and Robert, my sister Mary (wife of Wm. Fyfe), my nieces Jessie and Bella McIntosh, daughters of my brother Alexander, and my nephew James McIntosh, son of my brother Donald. In case any of the above named die before receiving their portion of this residue then it is my will that their portion should be divided equally amongst their heirs but in case any die without heirs then it is my wish that their portion be divided equally amongst those living.

The directions of the will were duly carried out, and in the year 1910 the farm was sold as directed and the proceeds divided amongst the beneficiaries then entitled, but two of the above named brothers and sisters having died during the currency of the immediate estate or lease to James McIntosh, their respective shares are in accordance with the will divisible amongst their children, of whom there are twenty in the two classes, each receiving an amount less than $200.00, so that their individual shares are exempt from duty.

It would seem, therefore, that the Department was in error in demanding payment at the time it did of the full amount passing under the clauses in the will above referred to without awaiting the happening of the contingency provided for, and that a refund should be made to the executors of the amount first above mentioned, viz. $110.17.

The objections taken by the Provincial Auditor to this refund are fully set out in the correspondence, a copy of which is attached.

The question is submitted to your Honourable Board for consideration.

J. B. McLeod,
Solicitor to Treasury.

Toronto, 27th September, 1911.

STATEMENT OF SUCCESSION DUTY.

JOHN MCINTOSH ESTATE (County Wellington).

Domicile, Ontario. Date of death, 1st August, 1903. Duty payable, 1st Feb., 1905.

Value of assets as sworn				$11,510 54
Deductions under sec. 4				200 00
Distribution				$11,310 54
Legacies exempt ($200 each)			$600 00	
Donald McIntosh (brother)		$1,600 00		
Mary Fife (sister)		400 00		
(These two beneficiaries died before the period of distribution of the residue, and their respective shares passed to their children, each child receiving an amount less than $300.)				
Jessie McIntosh (niece)	$200 00			
1-6 of residue	1,139 26			
		1,339 26		
Bella McIntosh (niece)	$200 00			
1-6 of residue	1,139 26			
		1,339 26		
James McIntosh (nephew)	$200 00			
Implements	1,275 00			
1-6 of residue	1,139 26			
		2,614 26		
Robert McIntosh (brother), 1-6 of residue		1,139 26		
Donald McIntosh's children, 1-6 of residue			1,139 25	
Mary Fife's children, 1-6 of residue			1,139 25	
		$8,432 04	$2,878 50	$11,310 54
Succession duty on $8,432.04 at 5%			$421 60	
Sucession duty, as per statement rendered 23rd December, 1903				$535 52
Amount overpaid		$113 92		
(Interest allowance for prepayment of $113.92 at 3% per annum from 25th December, 1903, to 1st February, 1905, 1 year and 37 days)			3 75	
Cheque for refund			110 17	
			$535 52	$535 52

Toronto, 7th June, 1911.

Memorandum for Mr. James Clancy.

Under the will of the above named decedent the executors were directed to lease the deceased's farm for a period of seven years and afterwards the residue of the estate. including the proceeds of the farm, was to be equally divided among the deceased's two brothers and a sister and two nieces and a nephew with an executory gift over of the portion of any of the above named, dying before receiving their share to their heirs equally. According to my view of the Succession Duty Act, the Crown could not have compelled the payment of duty until the farm was sold and the residue ascertained. Nor could the persons beneficially entitled be ascertained until it was seen whether any of the beneficiaries named survived the time of distribution. As it has turned out the deceased's brother, Donald, and sister Mary died leaving nine and seven children respectively, and these children's shares being under $200, the Crown is not entitled to duty thereon. If the Crown had not compelled payment before the proper time, the proportionate amount of the duty on the shares of the deceased's brother Donald and sister Mary would not have been legally payable.

J. B. MCLEOD,
Solicitor to the Treasury.

Toronto, 27th June, 1911.

Audit Office.

Toronto, July 6th, 1911.

Dear Sir,—I have your memorandum of the 27th ult. and note your views.

The duty having been paid within five months after the death of the deceased, and the estate having received a rebate on the duty payable amounting to $17.67 for payment before the expiration of the eighteen months, I should be obliged for the following information.

(a) Was payment of the duty made under pressure from the Department as to time or otherwise?

(b) Or was payment voluntarily made by the executors in so far as the time of payment was concerned?

(c) The executors and the Department consenting, was the amount so paid for duty the proper amount payable under the conditions existing at the time of such payment, and within the meaning of the Succession Duty Act.

Yours truly,

J. Clancy,
Auditor.

J. B. McLeod, Esq.,
Solicitor to the Treasury.

Memorandum for the Provincial Auditor.

I have your memorandum of the 6th instant.

Replying to your questions seriatim:

(a) It was pressure in a legal sense in so far as the Department claimed the full amount of duty at that time, where there was under the will a future interest, payment of duty on which might have been deferred until it fell into possession.

(b) The payment was expressly stated to be under protest, but whether it was under protest as to the time or amount, the correspondence does not show.

(c) The answer to the second question shows that the payment was made under protest. The third question seems to have no application. Under the Act only the present value of the seven years' legacy to James McIntosh was payable within eighteen months and the executors might have deferred payment of duty on the reversionary interest until the end of the seven years' period, when the persons beneficially entitled would have been ascertained, and in the absence of any intention on the part of the executors to commute the duty on the reversionary interest, the amount so paid by them was not the proper amount payable within eighteen months.

J. B. McLeod,
Solicitor to the Treasury.

Toronto, 11th July, 1911.

Audit Office.

Toronto, July 12th, 1911.

Dear Sir,—I have your memorandum of the 11th inst. and regret to learn that you do not seem to consider it necessary and have not answered the questions asked in my letter of the 6th inst.

I must respectfully submit that this is no time to consider or enter upon a discussion of what the executors, acting through their solicitor, Mr. McKinnon, might

have done as matters of choice, expediency or convenience some seven or eight years ago, but rather to determine what was actually done, and if what was so done was voluntary and understood at the time.

The statement made by Mr. McKinnon that payment of the duty was made under protest, unexplained amounts to no more than a cheap and idle exclamation unworthy of serious notice then or now, and indeed Mr. Ford, the then solicitor to the Treasury promptly expressed surprise at the statement to which no response has ever been made by the executors or Mr. McKinnon. Those who are endeavoring to attach any weight or importance to that statement are bound before repeating it to explain its foundation and meaning, if it had either, or abandon it.

In order to get at the facts and at the bottom of this case I beg leave to again repeat the questions asked in my former letter: some of them in somewhat different form but in substance precisely the same.

(a) Was there in fact a demand in any shape or form by the Department that the duty should be paid at the *time* it was paid? If so, where may the evidence be found?

(b) Was payment of the duty, as to the *time* of payment thereof, not made at the suggestion of the executors acting through their solicitor, and is there any evidence to show a contrary intention?

(c) The executors and the Department consenting, was the amount so paid for the duty the proper amount payable under the conditions existing at the time of such payment and within the meaning of the Succession Duty Act.

Yours truly,

J. CLANCY,
Auditor.

J. B. McLEOD, ESQ.,
Solicitor to the Treasury.

Memorandum for the Provincial Auditor.

Referring to your letter of the 12th ultimo, it seems too obvious to require further mention that the Crown demanded payment by the issue of a statement of succession duty, and that the payment was not made through choice, expediency, or convenience, and that it was not paid voluntarily, as it was expressly stated to be under protest.

As you say in your letter, the questions which you now ask were substantially answered in my previous memorandum, and as the correspondence and other papers, which you have had an equal opportunity to consider, have guided me in my consideration of this matter together with the sections of the Act applicable thereto, you are able to see the demand of the creditor by the issue of a statement on the one hand and on the other the involuntary payment of the debtor. The only material question is that the Crown wrongly demanded payment of the duty on a future interest to which the parties entitled and accountable for the duty could not by any possibility have been determined until the expiration of the seven years' period when the property was to be converted, and till such conversion and ascertainment of the parties entitled to the residue of the property, no Court could have ascertained the persons entitled nor could it have delivered judgment against the

persons liable for duty. These facts destroy any right on the part of the Crown to collect within the eighteen months' period, hence the refund is properly payable to the executor.

J. B. McLeod,
Solicitor to the Treasury.

Toronto, 5th August, 1911.

Audit Office.

Toronto, August 8th, 1911.

Dear Sir,—I have to-day received your letter of the 5th instant in which you make the following extraordinary statement, and add your legal opinion based thereon:

"Referring to your letter of the 12th ultimo it seems too obvious to require further mention that the Crown demanded payment by the issue of a statement of the succession duty and that the payment was not made through choice, expediency or convenience, and that it was not paid voluntarily as it was expressly stated to be under protest."

If it may be assumed that you are right in your law, the value of the opinion you have expressed must depend entirely upon the accuracy of your statement of the facts upon which it is based.

The zeal and energy displayed in the foregoing statement would seem unaccountable if not incredible in view of the facts disclosed in the correspondence, and especially in view of the statements made by Messrs. McKinnon and Howitt, Solicitors, then and now acting for the estate, which, so far as they are concerned, would seem to repudiate in detail the accuracy of every sentence contained in your statement of the facts.

In a letter dated July 18th, 1911, Messrs. McKinnon and Howitt said:—

"With reference to the 'Demand' of the Treasury Department spoken of by us and labored in your letter, you have taken a wrong meaning from our language. We did not desire to intimate that the initiative came from the Treasury Department or that it asked that the duty be paid immediately. What we meant was that the Department intimated that as a cash payment for the duty it would not receive less than $517.85. The Act itself provides clearly that Succession Duty *must* be paid, and in this sense of a demand it was not necessary for the Department to make a demand, and, of course, its solicitor did not make such a demand."

And again on the 22nd of July they said:

"Under the Act the executor had the right to give a bond instead of paying cash. This bond, however, would require to continue for a number of years, and as the estate was not a large one, the executors were desirous of minimizing the expenses as far as possible."

These clear and plain statements of the facts are, I respectfully submit, so conclusive as to not require any comment.

It would seem incredible that you should attribute to me the statement "that the questions asked in my letter of the 12th ultimo were substantially answered by you in your previous memorandum."

What I did say was "I have your memorandum of the 11th inst., and regret to learn that you do not seem to consider it necessary and have not answered the questions asked in my letter of the 6th inst."

May I now be permitted to again renew the request for an answer to the questions asked in my letter to you of the 12th ultimo.

Yours truly,

J. CLANCY,
Auditor.

J. B. McLEOD, ESQ.,
Solicitor to the Treasury.

Memorandum for Mr. James Clancy, Provincial Auditor.

Referring to your letter of 8th August, I may say that I have not yet had the privilege of reading the correspondence between Messrs. McKinnon & Howitt and yourself with reference to the proposed refund, of which you have given some extracts relative to the payment of the amount of duty demanded by the then Solicitor to the Treasury and their reasons for making such payment at that time, but it seems to me that no explanations which they now make can affect or alter the nature of the legal demand made by the Province by the issue of the statement of succesion duty on December 23rd, 1903. I must, therefore, reiterate the statements already made that it was a legal demand for payment at that time without showing any privilege of paying only on the present value of the income of the fund for a seven year period, and commuted present value of the reversionary interests, which might have been deferred until the expiration of such time. It does not seem likely that any definite conclusion can be reached by further correspondence, and as the solicitors for the estate are claiming the refund, I am preparing papers to submit the whole question to the Treasury Board for its consideration. I hope to hand these to you within the course of two or three days, and I shall be glad if you will let me have copies of any further replies which you may think it necessary to submit to the Board.

J. B. McLEOD,
Solicitor to the Treasury.

Toronto, 26th Sept., 1911.

Audit Office.

Toronto, September 27th, 1911.

Dear Sir,—I have your letter of the 26th inst., and beg to hand you herewith the correspondence between Messrs. McKinnon & Howitt and myself respecting the refund claimed by the estate.

I note that you propose to submit the question to the Treasury Board for its consideration.

Permit me to remind you that I have not refused to certify that a cheque may issue for a refund, and that there is, therefore, no case to refer to the Treasury Board.

I have from the first, and from time to time, endeavored to get from you such necessary information as would guide me in an intelligible consideration of the case, but this, I regret to say, you have steadfastly refused to give.

I have not at any time contended that the estate may not be entitled to a refund of some amount to be determined upon the ascertained facts, whatever they may be.

Much stress has been laid by you and the solicitors for the estate that payment of the duty was made under protest. If that protest had any meaning at the time it was made, it must have meant that the Department claimed a larger sum for duty than was properly payable under the then existing conditions.

May I again renew my request for the following information?

Having regard to the time that the duty was paid, and to the fact that Donald McIntosh and his sister, Mary Fife, were living when such payment was made. Was the amount of duty so paid under the then existing conditions in excess of the amount properly payable? If so, how much was the excess?

Yours truly,

J. CLANCY,
Auditor.

J. B. McLEOD, ESQ.,
Solicitor to the Treasury.

Memorandum for Mr. James Clancy, Provincial Auditor.

I am in receipt of your letter of to-day's date with enclosure of correspondence between yourself and Messrs. McKinnon & Howitt in this matter.

In reply to the question submitted by you in this letter I beg to say that the amount of duty paid by the executors on the 28th December, 1903, was in excess of the amount properly payable under the then existing conditions, which, I take it, included the proper persons ultimately found liable to payment of duty under the executory gift over mentioned in the will. The amount of such excess payment on the 28th December, 1903, was $249.46.

I must at once, however, be permitted to take exception to the statement contained in the fourth paragraph of your letter of to-day in which you say that you have from time to time endeavored to get from me such necessary information as would guide you in an intelligible consideration of the case, but that this information I have steadfastly refused to give. In reply to this I have to say that at no time have you been refused any information for which you asked, and you have been at all times placed in possession of everything relating to the matter which was on the files of my office.

Yours truly,

J. B. McLEOD,
Solicitor to the Treasury.

27th September, 1911.

Audit Office.

Toronto, September 28th, 1911.

Dear Sir,—I have your letter of the 27th inst. in which you state that the duty paid by the executors on the 28th of December, 1903, was $249.46 in excess of the amount then properly payable, meaning thereby, as I take it, that the estate is now entitled to a refund of the $249.46.

I should be obliged for a statement showing, "under the provisions of the Succession Duty Act," the basis upon which this excess is made up.

Yours truly,

J. B. McLeod, Esq.,
Solicitor to the Treasury.

J. Clancy,
Auditor.

Memorandum for Mr. James Clancy, Provincial Auditor.

I have your letter of to-day's date. In my letter to you of the 27th instant, I should have stated that the amount of the excess payment on the 28th December, 1903, was $289.86 instead of $249.46. Of this amount of $289.86, $179.69 represents succession duty on moneys, which upon the falling in of the immediate estate referred to came into the posession of the beneficiaries in whose hands such moneys were subject to succession duty, and as to this amount there is no ground for refund, nor, indeed, is there any claim in regard to it. As to the amount of $110.17, which is the amount to be refunded, the basis upon which this is made up is shown in a statement accompanying my covering letter addressed to the Assistant Treasurer, under date of June 7th, 1911.

As I have received strong and urgent complaints on behalf of the executors, by letter, long distance telephone and personal interview, about the delay in getting this matter settled, I shall be obliged if you will come to a final decision as to whether or not the cheque should be issued, if possible, by Monday next. If you do not feel that you should certify the issue of the cheque, I desire, not later than that date to refer the matter to the consideration of the Treasury Board.

J. B. McLeod,
Solicitor to the Treasury.

Toronto, 29th Sept., 1911.

Audit Office.

Toronto, September 29th, 1911.

Dear Sir,—I have your letter of to-day's date stating that, if I do not feel that I can certify the issue of the cheque, you desire that not later than Monday next to refer the matter to the Treasury Board.

In reply I beg to say that I shall first of all have to consult the necessities and convenience of this office when taking up the matter of coming to a decision in this, or any other matter.

Yours truly,

J. Clancy,
Auditor.

J. B. McLeod, Esq.,
Solicitor to the Treasury.

Audit Office.

Toronto, September 30th, 1911.

Dear Sir,—Having further reference to your letter of the 29th inst. I observe that you have revised your former statement that the amount of duty paid on December 28th, 1903, in excess of the amount properly payable under the then existing conditions was $249.46, and you now make the amount so improperly paid $289.86.

The statement furnished Messrs. McKinnon & Howitt on the 23rd of December, 1903, by Mr. Ford, the then Solicitor to the Treasury, shows that after deducting $17.67 for discount the net amount of duty payable was $517.85, if made on the 25th of December, 1903.

This amount of $517.85, it is claimed, was paid under protest because, as alleged, it was in excess of the amount properly payable. But the amount of the excess was not then stated or even intimated.

You now make the statement for the first time that the executors, on the 28th of December, 1903, paid $289.86 in excess of the amount then properly payable to the Province. But you have not furnished any information as requested as to how this alleged excess is made up, or what amount would have been properly payable on the 28th of December, 1903. It would not seem necessary at this point to consider the question of how much of the alleged excess is now claimed by the executors or beneficiaries. The first thing that would appear to be necessary to determine is as to whether or not there was in fact $289.86 paid by the executors on the 28th of December, 1903, in excess of the amount then properly payable. I have neither the privilege nor the means of knowing the facts, and I have therefore to again most respectfully request that a statement be furnished showing in detail under, and in accordance with, the provisions of the Succession Duty Act, how the alleged excess payment of $289.86, made on the 28th of December, 1903, is made up.

Yours truly,

J. Clancy,
Auditor.

J. B. McLeod, Esq.,
Solicitor to the Treasury.

Memorandum for Mr. James Clancy, Provincial Auditor.

Re John McIntosh Estate.

I have your letter of the 30th ultimo. In reply, I beg to enclose herewith a statement showing the amount of the excess payment made by the executors on 28th December, 1903, at $289.86.

J. B. McLeod,
Solicitor to the Treasury.

Enclosure 1.
Toronto, 2nd October, 1911

JOHN McINTOSH ESTATE.

STATEMENT SHOWING THE AMOUNT OF THE EXCESS PAYMENT MADE BY THE EXECUTORS, 28TH DECEMBER, 1903.

County, Wellington. Domicile, Ontario. Date of death, 1st August, 1903. Duty payable, 1st February, 1905.

Value of assets as sworn			$11,510 54
Deductions under sec. 4			200 00
Distribution			$11,310 54
Gifts out of Corpus:			
Legacies exempt ($200 each)	$600 00		
Donald McIntosh (brother)	1,600 00		
Mary Fife (sister)	400 00		
Jessie McIntosh (niece)	200 00		
Bella McIntosh (niece)	200 00		
James McIntosh (nephew)	1,475 00		
		$4,475 00	
(*Note.*—With the exception of the first item of $600 (exempt), duty was paid on the balance of $3,875 on 28th Dec., 1903)			
Residue, inclusive of farm, valued at $6,000, not distributable until seven years after the testator's death		6,835 54	
			$11,310 54
Residue, brought down			6,835 54
James McIntosh (nephew).			
Lease for a term of seven years of the farm, valued at $6,000, subject to the conditions set out in the will.			
Capital value of farm	$6,000 00		
	.04%		
Gross annual value	$240 00		
Less annual rent	100 00		
Net annual value	$140 00		
Present value of $1 per annum to be received for a term of seven years (Interest at 4%)	6.00205		
Present value, as of the date of testator's death, of lease	840.28700		
		840 29	
Present value, as of date of death, of reversion in the residue, payment of duty, if any, on which not obligatory until the falling in of the lease		5,995 25	
			6,835 54
Present value of reversion, brought down			5,995 25
Succession duty, at 5%		$299 76	
Interest allowed for prepayment, at 3% per annum, from 25th December, 1903 to 1st February, 1905 (1 year and 37 days)		9 90	
Amount of excess payment, 28th December, 1903		$289 86	

Toronto, 2nd October, 1911.

Audit Office.

Toronto, October 16th, 1911.

Dear Sir,—I have your letter of the 2nd inst. with accompanying statement, to which, owing partly to enforced absence from this office, I have not, I regret, been able to reply till now. As the figures given in your statement of the 2nd inst. would seem to clash with the original statement of December 1903, may I ask upon which of the two sums given in your statement of the 2nd inst., namely $6,835.54 and $5,995.25 respectively, might the duty have been properly commuted, under the provisions of sub-section 5 of section 16 of the Succession Duty Act, on the 28th of December, 1903, and the amount of duty payable under such commutation?

Yours truly,

J. B. McLeod, Esq., *Solicitor to the Treasury.*

J. Clancy, *Auditor.*

Memorandum for Mr. James Clancy, Provincial Auditor.

I am in receipt of your letter of the 16th inst. Owing to the urgent request of the solicitors for this estate that some decision should be come to in this matter, either by way of making the refund, or refusing to do so, I sent the papers to the Treasury Board on the 27th ult. accompanying a memorandum of same date, of which you have a copy.

I may say that it does not seem to me that any finality will be reached in this matter as a result of further continuance of this correspondence, and I prefer that a decision should be left to the Treasury Board under the provisions of the Audit Act.

J. B. McLeod,
Solicitor to the Treasury.

17th October, 1911.

Toronto, October 18th, 1911.

Audit Office.

Dear Sir.—I have your letter of the 17th inst., refusing to give any further information with respect to your conflicting statements or otherwise. I regret exceedingly that I have no course open but to await your pleasure.

Yours truly,

J. B. McLeod, Esq., *Solicitor to the Treasury.*

J. Clancy, *Auditor.*

Copy of a minute of the Treasury Board, dated the — day of November, A.D. 1911.

The Provincial Auditor having refused to certify the issue of a cheque for One hundred and ten dollars and seventeen cents ($110.17) in favour of the executors under the will of the late John McIntosh, being a refund of succession duty of this amount alleged to have been improperly charged against the estate of the said John McIntosh by reason of certain reversionary interests under the said will not having been liable to succession duty at the time the same was paid in by the executors, the Solicitor of the Treasury submits the sufficiency of the Auditor's

objections for the determination of the Treasury Board as provided by Clause (c) of subsection 1 of section 13 of "The Audit Act," as amended by Cap. 10, 9 Edward VII.

Upon consideration of the facts appearing in the correspondence submitted and the memorandum of the Solicitor to the Treasury, the Board is of opinion that the executors are properly entitled to the refund above mentioned and hereby direct that a cheque for the sum of one hundred and ten dollars and seventeen cents ($110.17) be issued in their favour forthwith.

Certified,

J. Lonsdale Capreol,
Clerk, Treasury Board.

Audit Office.

Toronto, November 13th, 1911.

To the Honourable the Treasury Board:—

I am in receipt of a copy of a minute of the Treasury Board of the blank day of November, 1911, directing payment of $110.17 to the executors under the will of the late John McIntosh.

The statement is made in the Order that the Provincial Auditor has refused to certify the issue of a cheque. I beg leave to be permitted to state that the Treasury Board has been entirely misinformed in this respect, a fact which was then and is now within the full knowledge of the Solicitor to the Treasury. I have not at any time refused to certify the issue of a cheque in this matter, as may be readily seen by reference to the following paragraphs in my letter to the Solicitor of the Treasury of the 27th of September, which forms part of the correspondence in this case:

"I note that you propose to submit the question to the Treasury Board for its consideration. Permit me to remind you that I have not refused to certify that a cheque may issue for a refund, and that there is therefore no case to refer to the Treasury Board. I have from the first, and from time to time endeavoured to get from you such necessary information as would guide me in an intelligible consideration of the case, but this, I regret to say, you have steadfastly refused to give. I have not at any time contended that the estate may not be entitled to a refund of some amount to be determined upon the ascertained facts whatever they may be."

I desire to further say that the statements issued by the Succession Duty Office in connection with this estate would now appear to be in serious conflict with each other. All that has been done or could be done so far was to earnestly endeavour to elicit such information as might aid in a solution of the whole matter.

Having regard to the possibility in future of applying the ordinary safeguards afforded by the Act in the adjustment of accounts I conceive it to be my duty to respectfully acquaint the Board of the utter disregard by the Solicitor of the Treasury of the provisions of Clause (c) of subsection 1 of section 13 of the Audit Act as amended by Chap. 10, 9 Edward VII.

The cheque has been certified as directed.

Yours truly,

J. Clancy,
Auditor.

B.

STATEMENT OF SPECIAL WARRANTS ISSUED DURING THE FISCAL YEAR ENDING OCTOBER 31ST, 1911.

1910.	——	Warrant.	Expended.
		c.	$ c.
Nov. 15.....	Seeds supplied settlers who suffered loss in forest fires in Rainy River District	1,957 00	1,957 00
" 17.....	Elk Lake—Charlton Road	7,510 00	7,402 65
Dec. 13.....	Expenses valuing Government House property, King and Simcoe Streets, including report and survey plans	500 00	500 00
" 21.....	Munn Lumber Company, payment of timber limits and property in Algonquin Park and vicinity surrendered to the Crown	290,000 00	290,000 00
" 29.....	Black River Bridge	1,578 56	1,497 84
1911			
Jan. 4.....	Canadian Northern Railway, transportation of seeds to settlers *re* forest fires in Rainy River District	156 94	156 94
Mar. 28.....	Surplus Registry Fees	19,375 33	19,375 33
Apr. 27.....	Scholarships to Students, Ontario Veterinary College	135 00	135 00
" 27 and Aug. 11.....	Erection of Arch on the Strand, England, *re* Coronation	2,600 00	2,500 00
May 20.....	Travelling expenses of the Honourable Sir James Whitney and Secretary to England	3,000 00	1,903 00
July 20.....	Contribution towards relief of fire sufferers, Eganville, Ontario	1,000 00	1,000 00
" 20.....	Expenses, Board of Censors of Moving Pictures..	3,000 00	1,608 32
Aug. 3.....	Erection of two bridges, Twp. Capreol, and a bridge over Vermilion River, to replace those destroyed by fire	2,600 00	1,408 18
" 9.....	Re-construction Hospital for Insane, Hamilton ..	15,000 00	8,839 44
Sept. 29.....	Special services *re* Indian Affairs.....	250 00	250 00
Oct. 12.....	General expenses *re* Wolf Bounty	500 00	20 25
" 20.....	Expenses, McCarthy, Osler, Hoskin, and Harcourt, *re* preparation of several Acts	525 73	525 73
" 20.....	Arbitration *re* Wahnapitae Log Canal	266 64	266 64
" 24.....	Expenses of Enumerators in Unorganized Districts	10,000 00	2,639 88
Oct. 31.....	Expenses decorating Ontario Government Buildings, London, England, *re* Coronation ceremonies	533 58	533 58
Nov. 14.....	Expenses entertaining Ecumenical Council of the Methodist Church	593 52	593 52

C.

STATEMENT OF EXPENDITURES IN EXCESS OF APPROPRIATIONS FOR THE FISCAL YEAR ENDING OCTOBER 31ST, 1911.

1911.	——	Warrant.	Expended.
		$ c.	$ c.
May 2.....	Refunds, Education	1,000 00	709 81
" 16 and Nov. 15.....	Crown Lands; Survey of Islands in Georgian Bay	8,800 00	8,753 08
June 13 and 30, and Oct. 25...	Crown Lands; Forest Ranging	30,000 00	26,714 17
June 15.....	Master-in-Ordinary—Contingencies	100 00	94 05
" 27.....	Administration of Justice—District of Sudbury..	3,000 00	2,184 95
July 21.....	Bureau of Archives—Contingencies	200 00	141 01
" 26, Sept. 27, and Oct. 31.....	Maintenance Locks, Dams, and Bridges	6,550 00	6,191 98
Aug. 1.....	Cobalt Lock-up—Drain and water-pipe	200 00	176 30
" 1.....	Audit of Criminal Justice Accounts—Contingencies	100 00	73 48
" 1.....	Rural, Public, and Separate Schools—Grants and equipment	120,000 00	114,154 61
" 1.....	Public and Separate Schools—New Districts	7,500 00	6,504 46
" 1.....	Continuation Schools—Grants and equipment....	9,700 00	9,608 12
" 1 and Oct. 31.....	High Schools and Collegiate Institutes	10,150 00	8,550 88
Aug. 4.....	Land Titles Office—Clerical assistance	1,000 00	735 32
" 15.....	Eastern Dairy School	2,000 00	1,521 25
" 23.....	Live Stock—Grants to Horse Shows	100 00	90 25
" 28 and Oct. 31.....	Administration of Justice—Travelling expenses, Bailiff and prisoners	2,119 30	2,104 15
Aug. 28.....	Special Investigations *re* Estates of Lunatics ...	2,000 00	1,403 37
Sept. 20.....	Institution for the Blind—Laundry, soap, and cleaning	80 00	74 91
" 20.....	Departmental Library and Museum—Natural History collections	375 00	370 71
" 20.....	Agriculture—District Representatives	8,500 00	8,323 07
" 20.....	Statute Revision Commission—Refreshments ...	277 00	277 00
" 20.....	Provincial Secretary's Department—Contingencies	3,000 00	2,949 61
" 20 and Oct. 31.....	Osgoode Hall—General Repairs	550 00	494 64
	Osgoode Hall—Cleaning of Building	460 00	418 84
Sept. 26.....	Administration of Justice—Railway fares and clothing of discharged prisoners	1,500 00	1,033 59
" 27.....	Colonization and Immigration Work in Great Britain	10,000 00	8,992 06
Oct. 10.....	Hydro-Electric Power Commission	70,000 00	70,000 00
" 10 and Nov. 17.....	Departmental Examinations	4,500 00	4,309 75
Oct. 10.....	English-French Training Schools	1,000 00	753 36
" 10 and 24.	Summer Schools	2,976 94	2,932 09
" 12.....	Audit Office—Contingencies	250 00	208 74
" 17.....	Osgoode Hall—Fuel, light, and water	800 00	688 74
" 19.....	Exhibit at Canadian National Exhibition	175 00	159 84
" 23.....	Revision Voters' Lists	10,000 00	625 49
" 25.....	Crown Lands—Algonquin Park	1,000 00	544 89
" 25.....	Crown Lands—Agents' Salaries	5,000 00	3,856 20
" 25.....	Crown Lands—Ottawa Agency	100 00	58 51
" 25.....	Crown Lands—Mining Recorders	3,000 00	2,504 37
" 25.....	Field Crop Competition	7,000 00	7,013 72
" 25.....	Blind Institute—Groceries and provisions	150 00	130 27
" 27.....	License Branch—Collection of Revenue	300 00	297 35
" 31.....	Government House—Fuel, light, and water	40 00	37 73

C—Concluded.

STATEMENT OF EXPENDITURES IN EXCESS OF APPROPRIATIONS FOR THE FISCAL YEAR ENDING OCTOBER 31ST, 1911.

1911.		Warrant.	Expended.
		$ c.	$ c.
Oct. 31	Government House—Repairs to grounds	650 00	288 83
" 31	Deaf and Dumb Institute—Completion of barn	650 00	609 25
" 31	District Sault Ste. Marie—Furniture and furnishings	100 00	28 24
" 31	District Thunder Bay—Furniture and furnishings	10 00	3 85
Oct. 31 and Nov. 16	District Kenora—Remodelling Gaol	975 00	746 09
Oct. 31	Magnetawan River Bridge—Twp. Perry	85 16	70 16
" 31	Winnipeg River Bridge—Twp. Pellatt	127 63	127 63
" 31	Burnt River Bridge	85 95	85 95
" 31	Commanda Bridge	40 95	40 95
" 31	Desbarats Bridge, Algoma	189 52	189 52
" 31	Verner Bridge	116 23	116 23
" 31	Goulais Bay Bridge	59 76	59 76
" 31	New Government House	16,500 00	16,227 27
" 31	Administration of Justice—District of Algoma	1,000 00	1,080 54
" 31	Public Works Department—Contingencies	1,200 00	1,235 88
" 31	Education Department—Contingencies	400 00	379 07
" 31	Crown Lands—Survey of Islands, Lake of the Woods	4,000 00	640 00
" 31	Crown Lands—Survey of Town Sites	2,750 00	1,894 53
" 31 and Nov. 10	Game and Fisheries	2,000 00	2,280 81
Oct. 31	Ontario Veterinary College—Salaries	95 35	94 35
" 31	Ontario Veterinary College—Fuel, rent, and light	300 00	293 93
Nov. 2	High Schools and Collegiate Institutes—Contingencies	650 00	444 72
" 6	Kenora District—Grounds and Walks	150 00	148 76
" 7	New Provincial Prison	10,000 00	9,920 87
" 7	Investigation as to Feeble Minded	20 25	20 25
" 7 and 10	Attorney-General's Department—Contingencies	350 00	346 55
" 7	Inspection Public Institutions—Contingencies	1,500 00	1,286 70
" 15	Crown Lands—Inspection of Surveys	1,290 00	1,152 97
" 16	Parliament and Department Buildings—Alterations and equipment of Laboratories	350 00	341 50
" 16	Colonization Roads	2,685 00	1,374 04
" 16	Hospital for Insane, Hamilton—Salaries	675 15	675 15
" 16	Hospital for Insane, Hamilton—Provisions	6,909 91	4,738 20
" 16	Hospital for Insane, Toronto—Provisions	2,380 10	2,380 10
" 16	Hospital for Epileptics, Woodstock—Provisions	776 32	776 32

INFANT MORTALITY

THIRD REPORT

BY

DR. HELEN MacMURCHY

TORONTO

PRINTED BY ORDER OF

THE LEGISLATIVE ASSEMBLY OF ONTARIO

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INFANT MORTALITY.

To The Hon. W. J. Hanna,
Provincial Secretary.

Sir,—All over the world interest in Infant Mortality has been increasing. In Canada this was marked in 1911. It has been the subject of numerous public addresses. The chief newspapers in Halifax, Montreal, Ottawa, Kingston, Peterborough, London and Berlin have devoted leading articles to this subject. The *Kingston Daily Whig* says: "It is a great problem and the Provincial Government should try and solve it."

The *Montreal Daily Star* emphasizes the duty of the large cities of Canada in regard to Infant Mortality.

The *Ottawa Free Press* says: "Governments in this country spend hundreds of thousands to teach the farmer how to raise colts and calves and pigs. Not a dollar is spent to teach the mother how to rear her young. The light seems to be breaking, however, and it is to be hoped that the Ontario Government will initiate steps to carry out the recommendations of its investigator."

The *Peterborough Examiner* says: "Herein is raised a more important question than reciprocity or tariffs. These have to do with our pockets; but the question of marriage of the fit or unfit has to do with the quality of our homes, the good or bad quality of our population."

No Excuse.

The *Toronto World* says: "There will be no excuse for us until we have a very much better rate. In fact, the death-rate for babies ought to be less than that for adults. Young fathers and mothers ought to take pains to learn the few necessary things which babies need to keep them living and well."

It remarks in another issue, referring to a table in the Second Report showing the relative Infant Mortality of all the cities of Ontario: "Does the City Council wish to get Toronto any lower on this list?"

Enquiries About Infant Feeding.

Interest has been shown further by a number of letters received at the Provincial Secretary's Department. Some of these letters have asked for information as to the feeding of infants, and a few notes on that subject have, therefore, been added to this Report.

Letters from Abroad.

Other letters came from London, Liverpool, Edinburgh, New York, Boston, Philadelphia, Washington, Chicago, Australia, and New Zealand. From the Department of Health in Chicago came a request for 50 copies of the Report for the

use of as many nurses who were employed by the Department under Dr. Caroline Hedger, in the successful effort made by them in 1911, to reduce Infant Mortality. This request was granted by the Hon. W. J. Hanna. The Report is now out of print.

The Work of Two Canadians.

Two important pieces of work were done in Ontario in 1911 on Infant Mortality. One was a thesis presented for the degree of M.A. in the University of Toronto on the Vital Statistics of Ontario and the Registration of Births in Toronto. The other was the work of a graduate in Medicine of the University of Toronto who was appointed Medical Health Officer of Fort William in 1910.

The thesis presented by Mr. R. E. Mills, B.A., Fellow in the Political Science Department, aimed to review and criticise the Vital Statistics of Ontario at present available in such a manner as to provide a statistical basis for future practical campaign work in connection with the improvement of birth and death rates, and especially the infant death-rate; and also to make a plea for better statistics from which to work in future.

Mr. Mills' line of argument is somewhat as follows:

So long as the census figure for net births in Toronto, viz., 20.4 per 1,000 population is obtained by taking the sum of the following—

Number of children living under 1 year of age; number of children living in census year who died under 1 year of age, it cannot be wondered at that we find the birth-rate for Toronto (given in the Report of the Registrar-General for Ontario as 21.8, which Mr. Mills finds to be 25 per cent. too low), still more misleading than the Ontario returns.

In Ontario We Have—

1. The Registrar-General—The Provincial Secretary. 2. Deputy Registrar-General—The Secretary of the Provincial Board. 3. Division Registrars—The Municipal Clerks.

The Division Registrars are paid (59 Vict. Ch. 2, S. 24) 20 cents for each registration. (Cities and towns of more than 10,000 population may limit the aggregate sum to be paid.)

The law provides, R.S.O., 1897, Ch. 44, S. 15:

1. That the birth shall be notified to the Division Registrar—

(1) Within 30 days.

(2) By the father or by the mother or by some person standing in his or her place, or by the occupier of the house where the child is born, or by the nurse present at the birth.

2. That the birth shall be notified to the Division Registrar forthwith by the attending physician.

3. That the penalty of non-fulfillment shall be not less than $1.00, and not more than $10.00 and costs.

From the Church Register.

In order to have a basis of facts and figures for this matter Mr Mills transcribed from the register of baptisms in five churches of Toronto the following particulars from January to November, inclusive, 1908:

1. Name of each infant baptized.
2. Date of each infant's birth.

3. Name and address of father and mother. (These five churches were selected with a view to representing all classes of the population, but unfortunately no way presented itself of including the Jewish population of Toronto, which is now stated to be about 20,000.)

The Five Churches.

Name of Church.	No. of Births
St. Paul's (R. C.)	117
Our Lady of Lourdes (R. C.)	23
St. Paul's (C. E.)	45
St. Patrick's (R. C.)	98
St. Anne's (C. E.)	92
	375

TORONTO'S REGISTER OF BIRTHS.

In the office of the City Clerk of Toronto there is kept an alphabetical birth register. Each of these 375 children's names was then searched for in the register and 268, or 71.5 per cent., were found.

As shown by the following table:

	Registered.	Per cent.	Unregistered.	Per cent.	Total.
St. Paul's (R. C.)	80	68.4	37	31.6	117
Our Lady of Lourdes (R. C.)	17	73.9	6	26.1	23
St. Paul's (E. C.)	37	82.2	8	17.8	45
St. Patrick s (R. C.)	57	58.2	41	41.8	98
St. Anne's (C. E.)	77	83.7	15	16.3	92
	268	71.5	107	28.5	375

QUESTIONS.

But how many children were not baptized at all?

What about the illegitimate infants, of whom only three or four were found among the 375?

What nationality were the parents?

In order to answer this last question Mr. Mills compiled the following, again comparing with the City Register of Births. Children baptised in St. Patrick's Church (R.C.), arranged according to the birthplace of the father, January to November, 1908:

Fathers born in—	Total number Baptised.	Number registered.	Per cent. unregistered.
Canada	32	11	34.4
Italy	37	12	32.4
Poland	10	7	70.0
Syria	5	4	80.0
Austria	3	3	
Germany	1	0	
China	1	1	
United States	2	2	50.0
England	5	1	
Scotland	1	0	
New Zealand	1	0	
	98	41	41.8

Only 75 Per Cent. of Births are Registered.

The conclusion drawn by Mr. Mills is that 25 per cent. may be taken as a fair estimate of the error in Registration of Births in Toronto.

One-fourth of our births are not registered or numbered at all. This, he points out, would make the number of births in Toronto in 1908, 10,584 instead of 7,938, and the birth-rate per 1,000 population 46.1 instead of 34.6 in Toronto. In Ontario, assuming that an equal error exists, the number of births in 1908 would be 76,207 instead of 57,155, and the birth-rate per thousand population would be 34.1 instead of 25.6.

Births Registered Twice.

Mr. Mills has made the interesting discovery that some births are registered twice. Out of 636 birth registrations in the City Register for Toronto no less than twenty, or over 3 per cent., are found to be registered twice. This may explain in part the discrepancy in the following figures:—

Number of Births in Toronto.

——	City Clerk's Returns.	Registrar General's Returns.
1900	4,530	4,534
1901	4,445	4,445
1902	5,065	5,044
1903	5,040	5,041
1904	5,283	5,286
1905	5,816	5,826
1906	5,985	5,985
1907	6,715	6,680
1908	7,945	7,938

The following tables were prepared by Mr. Mills from the census figures:

Number of children under 5 years of age per 1,000 population of all ages.

Year.	——	Year.	——
1871	144	1891	120
1881	131	1901	103

Number of Children under 5 years of age per 1,000 women of 15 to 45 years of age.

Year.	——	Year.	——
1871	650	1891	477
1881	571	1901	424

Total number of children living under 5 years of age.

Year.	——	Year.	——
1871.....	232,596	1891.....	239,847
1881.....	252,053	1901.....	224,582

WHAT DOES THIS MEAN?

What do these Dominion Census figures mean for Ontario? With a larger population in 1901 we have actually a smaller total number of children under 5 than we had in 1871. Is this true? If it is, it is appalling.

Registration of Births in Ontario.

No one seems to know much about the registration of births in Ontario. The form given below will probably be seen for the first time by many readers of this report. The detachable part is to be filled in by the doctor, but probably if the first ten doctors who pass the City Hall be stopped, shown this form, and asked if they have ever seen it before, it will be found that at least two of them have never seen it. How then, are they going to fill it up, tear it off, send it to the Division Registrar, and give the other part to the father or other responsible person, and tell him or her what to do with it?

Form 3. PROVINCE OF ONTARIO.

Municipality of.....County of.....

Official Return of Birth.

Questions to be answered by the Informant of Birth.

No Penalty will be incurred if this Birth is registered within 30 days.

1	What is the full name of child?	Surname. Christian names.
2	When was the child born?	.....day of.....19..... .....Hr.....Min..... M.
3	Where was the child born? St., number or Concession and Lot.	If in Hospital, give its name.
4	Male or Female.	
5	Are the parents married?	
6	Full name of Father?	
7	Occupation of Father?	
8	Full Maiden Name of Mother.	
9	If she has been more than once married give names of former husband or husbands.	
10	Where were the parents married?	
11	When were they married?	
12	If not married, give full name of Mother.	
13	Is she Single, or a Widow? If a Widow, state name, occupation and date of Husband's death.	
14	What is her occupation?	
15	Name of Physician attending.	
16	Your relation to child?	
17	Were you in house at time of birth?	
18	Your signature and address. Date	

Detach along this line and mail in Free Envelope forthwith to Division Registrar.

PROVINCE OF ONTARIO.
Medical Practitioner's Notice of Birth.

I hereby notify of the following Birth in accordance with Section 14 of the Vital Statistics Act, 1908.

When was the child born?	Sex.
Where was the child born? If in a hospital, give its name.	
Name of Father.	
Signature and Address of Medical Practitioner and date.	

Maiden Name of Mother.

Address of Parents.

State whether Twin, Triplets, Illegitimate or Still Birth.

Why are Births Not Registered?

The reasons for the neglect of birth registration in Ontario are not well ascertained. But the magnificent distances of Canada, the difficulties of the early settlers, and the consequent lack of training of the community as to the importance of vital statistics, as well as the formation of the habit of neglecting registration have probably something to do with it. The Division Registrars have no great security of tenure, and are only paid a maximum of 20 cents for each registration.

The Provincial Vital Statistics, formerly much in arrears, are now almost up to date. The report of 1910 was distributed early in the year, and that of 1911, due before the end of 1912, promises to be completed on time.

Finally, registration of births really depends on the physician. He should notify the Division Registrar and he should give the other portion of Form 3 to the father or other responsible person and tell him to register the birth. As a matter of fact, the physician often does neither the one nor the other.

Non-Registration of Births.

Mr. Mills studied the Toronto Birth Register Book from Jan. 1 to Feb. 28, 1911, and found 885 births registered, of which 629, or 70 per cent., were never reported by the physician at all. In every case there was a physician in attendance, according to the entry.

On the other hand 130 births were reported by physicians but were not registered, and of these 56 were in January, 1911, and therefore registration was overdue the 30 days allowed by law.

How to Secure a Better Registration.

Prosecutions under the Birth Registration Law in Ontario are almost or quite unknown. Parents generally are entirely unaware of their duty in this matter, and unless and until the people of this Province and especially parents and the medical profession

1. Have their attention aroused and strongly directed to this duty and why they should do it.

2. Are officially informed that the law must be carried out,

no improvement is likely to take place. It is perhaps not unreasonable to think that physicians should be paid for this work.

Frequency of Still Births.

It is not possible to state with what frequency still births occur until the subject is farther investigated, and until the registration of births is more accurate. Two records were published in England in 1911, one by Dr. Foulerton, County M. O. H., East Sussex, and the other by Dr. Lyster, County M. O. H. for Hampshire. It appears that in the latter county an investigation showed that in the practice of certain midwives still births appeared to be much more frequent than in the practice of others. Thus. nine midwives who attended 260 births had

a total of 20 still births, or nearly 8 per cent. In East Sussex from 1906 to 1910 there were 9,012 births attended by midwives, and of these 1.73 per cent. were still births.

On the other hand, among all the births attended in connection with a London maternity charity the percentage of stillbirths was 2.7, while in another London maternity charity it was 4.3 per cent.

Registration of Still Births in Other Countries.

Still births are not registered in England. In France and Belgium children dying before or after birth, if before registration are recorded as still births, but are not included in the general birth statistics. In Italy, Germany and the four Scandinavian countries the term still birth is used in a medico-legal sense, *i.e.*, "a viable infant (having had over 6 months of intrauterine life or being twenty-five centimetres long) which is dead without having breathed" and the statistics are given separately. (From Dr. Newsholme, quoted by Mr. Mills.)

Mr. Mills draws attention to the importance of giving birth and death statistics with still births not included, and also of giving separately the number of still births registered as births and the number of still births registered as deaths, as follows:—

In the report itself still births are included in both birth and death statistics. The impossibility of comparing the rates derived from such figures with those of other countries where the deduction is made is apparent from the following tables. (Mr. Mills.)

—	Ontario, 1907.	Toronto, 1907.
Crude Birth Rate	24.1	29.5
Net "	23.5	29.2
Crude Death Rate	15.0	20.2
Net "	14.3	18.7
Crude Infant Death Rate	150.1	196.6
Net " "	120.4	148.1

Deaths Under 1 Year of Age.

Year.	Crude Figures.	As Corrected by the Registrar General.	Still Births Registered as Deaths.
1899	956	777	179
1900	1,064	880	184
1901	886	711	175
1902	884	713	171
1903	1,024	827	197
1904	1,161	903	258
1905	1,208	935	273
1906	1,195	918	277
1907	1,313	976	337
1908	1,535	1,215	320

Births.

Year.	Crude Figures.	As corrected by the Registrar General	Still Births as births.	Corrected figures.
1899	4,006	3,827	13	3,993
1900	4,534	4,350	74	4,460
1901	4,445	4,270	91	4,354
1902	5,044	4,873	91	4,953
1903	5,041	4,844	83	4,958
1904	5,286	5,028	104	5,182
1905	5,826	5,553	132	5,694
1906	5,985	5,708	116	5,869
1907	6,680	6,343	89	6,591
1908	7,938	7,618	not given.	.....

"Prior to 1908 it has been always possible to correct both birth and death figures by subtracting from each the number of still births registered as such. But such a correction since 1908 is impossible, as, for some unaccountable reason, the Registrar General has omitted to publish the number of still births registered as births. It is to be hoped that this at least will be remedied in subsequent reports of the Department." (Mr. Mills.)

What is a Still Birth.

It may be pointed out that in Ontario we have no legal definition of still birth. This is needed.

Local Vital Statistics.

From the city and hospital registers and from the Police Census books Mr. Mills has prepared vital statistics for three sections of the city for 1908.

1. The Ward, east of University Ave., west of Yonge St., north of Queen St., south of College St.

2. Eastern District, east of Sherbourne St., west of Don River, north of water front, south of Queen St.

3. Rosedale, east of Yonge St., north of Bloor St.

The statistics are shown in the following tables:

District.	Population (Police Census).	Births (Minus Still Births).	Deaths (Minus Still Births).	Deaths under 1 year of age (Minus Still Births).
1908				
1. The Ward	12,330	327	151	45
2. Eastern District.....	8,378	212	169	53
3. Rosedale	5,694	97	52	11

District.	Births per 1000 Population.	Deaths per 1000 Population.	Deaths under 1 year per 1000 Births.
1. The Ward	26.5	12.2	137.6
2. Eastern District	25.3	20.2	250.0
3. Rosedale	17.0	9.1	113.4
Toronto City	25.9	14.4	155.5

Corrected by 25 per cent. error in Birth Registration.

District.	Births per 1,000 population.	Deaths per 1,000 population.	Deaths under 1 year per 1,000 births.
1. The Ward	35.3	12.2	103.2
2. Eastern District	33.7	20.2	187.5
3. Rosedale	22·7	9.1	75.0
Toronto City	34.5	14.4	116.2

VITAL STATISTICS OF TORONTO, 1908.

Crude figures 1908.				Corrections.	Corrected figures 1908.			
Birth rate per 1000 population.	Marriage rate per 1000 populati'n	Death rate per 1000 popula. tion.	Infant death rate under 1 yr. per 1000 births.		Birth rate per 1000 population.	Marriage rate per 1000 populat'n.	Death rate per 1000 population.	Infant death rate. Deaths under 1 year per 1000 births.
34.6	14.9	20.4	193.5	(1) For still births..	34.1	.....	19.0	155.5
				(2) For incomplete registration of births and for still births....	45.5	.....	.....	116.6
				(3) For error in the population census, incomplete registration of births and still births..	34.5	11.3	14.4	.....

These results are of great interest and will repay careful study.

INFANT MORTALITY REDUCED AT FORT WILLIAM.

Fort William is one of the most progressive cities in Canada. Its increase in population from 1901 to 1911 was 354 per cent.—greater than the percentage increase of any other city in Ontario, though Port Arthur shows in the same period an increase of 249 per cent. and North Bay 205 per cent.

Woodstock has a birth rate of 12.9 per 1,000 population and Chatham a birth rate of 21.1 per 1,000 population and Toronto a birth rate of 32.0 per 1,000 population.

Fort William again heads the cities of Ontario with a birth rate of 98.1 per 1,000 population. But it did not keep them all. Dr. Wodehouse, appointed Medical Health Officer in 1910, found that in the months of July and August, 63 infants under one year of age died. He found himself without any assistance in the Department of Health, except one nurse, who was Superintendent of the Isolation Hospital, and in the hot days of July and August a baby was being buried every day in Fort William, all of them from summer diarrhœa.

The Health Officer Visits the Mothers.

Dr. Wodehouse made a list of the names and addresses of all the dead babies, and for his own satisfaction, went himself to see the mothers and talk to them.

Why the Baby Died.

He found that one baby (3 months old) had been given half a soda biscuit with each feeding, one had been fed on sour milk all day except the first feeding in the morning, and two had had green uncooked fruit to eat. *But not one of these 63 babies, who had died in Fort William in July and August, 1910, had been nursed by the mother.*

The Plan.

With this information the Doctor went to work. He asked for a laboratory for examination of milk and water. He also secured:

1. A Milk By-law.
2. A Compulsory Sewer By-law.
3. The appointment of a Sanitary Inspector.
4. The appointment of a District Health Visiting Nurse.

The Plan Succeeds—Sixty-six Per Cent. Saved.

By this plan of campaign carried out at once, Dr. Wodehouse was able to carry Fort William through the hot weather of July and August in 1911 with only 21 deaths of infants under one year old. This is all that is necessary. Personal supervision, personal interest, personal teaching by an expert (a doctor or a nurse), given the sewer and the pure milk supply, then the death rate under one year old goes down. 21 is only 33 1-3 per cent. of 63.

Who Helped.

The newspapers were a great help in the campaign to Save the Baby. Mayor Young, of Fort William, helped. He gave a banquet on June 7th, 1911, "to all those who are actively associated with infants." Dr. Wodehouse says this is the "most interesting and satisfactory work I ever undertook."

OTTAWA.

Dr. Shirreff, Medical Officer of Health in Ottawa, with the assistance of the members of the Local Council of Women and others, began, in 1911, a campaign to reduce infant mortality. The investigation carried on by the Department of Health showed that of 157 infants under one year of age, who had died of diarrhœal disease, only 21 were breast fed. A nurse was engaged to help in the work and certified milk was procured from a dairy near the city, the milk being delivered in Ottawa about three or four hours after milking. It was bottled at once, and in some cases was modified by the addition of 16 per cent. cream, lime water, or barley water and milk sugar, according to the prescription of a physician or of the Health Department. Every effort was made to encourage nursing by the mother.

A Good Result.

Though carried on for a few months only, the result of this effort was gratifying. It saved lives. Of the babies under the care of the nurse, from June 20th to September 1, 1911, a much smaller number died than would formerly have died. The percentages are for those under the care of the nurses, 1.6 per cent. of the breast-fed infants died, 2.5 per cent. of the babies fed on modified milk supplied by the Department of Health died.

HAMILTON.

Another city which has adopted measures to reduce infant mortality is Hamilton. Dr. W. F. Langrill, when he was Medical Officer of Health encouraged the movement, though it was not until 1909 that the work was really begun.

The First Effort.

A number of medical men, among whom is Dr. Heurner Mullin, brought the matter to the attention of the Board of Health, but, as usual, "all the appropriations had been made for the year." The Victorian Order Committee then came forward and guaranteed the needed funds, so that the work was actually started in July, 1909. Two depots were opened, one at the City Hospital, and one at the market. A farm was found about three miles from Hamilton, where the herd was tuberculin-tested. The milk was sterilized and bottled at the farm, formulæ were agreed on by the doctors, a nurse was put in charge at the farm and another at the market depot, while the doctor and nurse in charge of the Out Patient Department of the Hospital took charge of the Hospital Clean Milk depot.

A great deal of work, most of it uphill, must be done by somebody in connection with a movement such as this.

The Babies Milk Dispensary Guild.

It was felt that while much had been done, the more modern methods of visiting the mothers and babies in the homes would produce better results. The Victorian Order not being prepared to carry on the work permanently, it was resolved to form a Babies' Milk Dispensary Guild, which has, during the present year, cared

for 140 babies and had only 12 deaths out of that number, 7 of these babies having been on the list for one week or less, and the whole 12 for less than two weeks. An excellent account of this work in Hamilton, including the Visiting Nurse's work, was given by Dr. Mullin before the Ontario Medical Association in 1911.

DO PEOPLE KNOW?

How many of the citizens of Ontario know that we buried nineteen babies under one year old every day in Ontario in 1909, or 6,932, nearly 7,000 in that one year?

The cost of burying a baby is about $50.00. It cost the people of the Province of Ontario about $350,000.00 to bury these dead babies. It would have cost much less than that to keep them alive, and half of them could easily have been kept alive. Dr. Wodehouse, the Medical Health Officer of Fort William, saved 42 babies for $194.98, including medicines for the poor, nurse's salary and car tickets. This is less than $5.00 each. But babies' funerals cost $50.00 each. And then Fort William has the 42 babies. Ontario has them too.

Assets and Liabilities.

A dead baby is a liability till its funeral is paid. But a living baby is an asset and liable to grow into a good Canadian—

What is a Canadian Worth?

And what sum is a good Canadian worth to the country? What was Sir John MacDonald worth? Or Alexander Mackenzie? Or Laura Secord? Or Lord Strathcona? And it is not only the dead babies. Such a death is merciful compared with the life of the poor victims of various ills that our ignorance and carelessness condemn our children to!

What sort of Canadians will live in Canada from 1932 to 1982? Those that are now cradled in their mothers' arms—if they are not clutched from that kind embrace by disease or by death?

Social Incompetence.

Our industries are improving, our commerce is enlarging, our wealth accumulates. But what of the art of living itself. Modern industrial methods have changed all the habits and the surroundings of by far the majority of our people. But though this happened two generations ago, at least in Canada, we have never yet emancipated ourselves from that social ignorance and social incompetence which either cannot see these changes or will not do anything about them. Yet social action is the only possible action. Individual action cannot deal with such a situation. National action, Government action, collective action, municipal action, not individual action can save the baby.

Provincial and Municipal Action.

The Province and city must secure a clean water supply, and a clean milk supply. One father and mother cannot establish a modern system of quick, sanitary and satisfactory garbage disposal. The city must do that. One citizen cannot pay

for paving the street with asphalt. The city can do that and he can pay his share. One citizen cannot compel the careless or covetous landlord to abolish the abominable outside privy and avail himself of the cheap water-carriage lavatory that the excellent system of sewers and water supply in Toronto and most of the other cities renders available.

ONTARIO.

Institution Mortality.

In the House of Commons at Ottawa and almost everywhere else in the Province, the question of infant mortality is beginning to be debated in Ontario, and people are beginning to take thought about it.

Dr. J. B. Black, M.P. for Hants, in Nova Scotia, said from his place on the floor of the House: "I have some figures here which will probably astonish some of us. In the city of Ottawa there were born last year, to the 31st of October, 1910, 2,100 children. Ninety per cent. of these should have lived. Of those born 626 died, or nearly 32 per cent. of all the children born in Ottawa up to that date died." —*Hansard* report.

Institution mortality plays a not inconsiderable part in the high infant death rate of Ottawa. In one institution alone 91 deaths of infants are acknowledged to have taken place from Oct. 1, 1910, to Sept. 30, 1911. Only 65 of these appear on the register kept by the City. Why? And was the 91 the real sum total?

It is to be remembered that the Statutes of Ontario place the responsibility of inspecting institutions on the Medical Health Officer of the municipality where the institution is located.

The Ontario Government during the past year took steps to forbid expressly the separation of any infant from its mother before such infant is of the age of nine months at least.

An Act to Regulate Maternity Boarding Houses and for the Protection of Infant Children.

It is hoped that the revision of this act, now proceeding, may do something to lessen infant mortality. Certain advertisements now appearing in our newspapers should be disallowed. To attract those in a desperate position by advertising that infants are received for adoption often means, it is greatly to be feared, that these same helpless infants are condemned to a slow and cruel death by starvation. Starved because the wretched places often do not know how to keep a child alive, even if they want to, not to mention their ignorance of the well-known rules of child hygiene now being observed all over the world.

District Health Officers.

While all these efforts in different cities and by various organizations help to reduce Infant Mortality. it must be evident that nothing but energetic action on the part of the Provincial authorities will be adequate to cope with such an important provincial matter. The proposal to divide the Province into Sanitary Districts, each to be placed under a Medical Health Officer who would rank high and would have general charge and oversight of the whole District, would be of the greatest

service in this connection. With these Provincial District Health Officers, in direct communication with the Chief Health Officer of Ontario and with the Chief Health Officer as the Central Executive Authority, a campaign could be organized for the Study and Prevention of Infant Mortality in Ontario, the results of which might be expected to lift us from the low and unworthy position we now occupy, tried by the supreme test of sanitary rank, namely, Infant Mortality.

Birth Registration in Manitoba.

Some of the Provinces of the Dominion are beginning to turn their attention to the problem of birth registration. In the following statement, taken from the Official Report of the Registrar General of the Province of Manitoba for 1910, this is shown: "Use every effort in your power to secure the complete birth registration of your district. This is very important, as infant mortality is computed by the ratio of deaths of infants under one year of age to the 1,000 living births. If your birth registration is not complete, you will have a large infant mortality and a misleading statement will be the result.

"The Department will give you every assistance you may require to achieve this end.

"The remuneration received by municipal clerks for the time and trouble they take in securing correct statistics is indeed very scanty, and the public should not lose sight of the fact of the importance of this service. It certainly is deserving of greater consideration, as the work of collecting the records of births, marriages and deaths is one that will be valuable to posterity in a degree proportionate to their correctness."

PRINCE EDWARD ISLAND.

For the year ending May 31, 1910, number of births registered, 1,372; number of deaths registered, 954; number of deaths under 3 years, 142.

NEW BRUNSWICK.

The Deputy Provincial Secretary of the Province of New Brunswick writes:

"In reply I beg to state that our returns are very informal and are not in any way at all complete. In some cases some of the counties of the Province have been left out altogether, but I now give you the number as received by me for that year: Births, 5,794; deaths, 3,409."

NOVA SCOTIA.

The report of Arthur S. Barnstead, Deputy Registrar General, to the Hon. G. H. Murray, Registrar General, for the year ending September 30, 1910, was published in Halifax on March 31, 1911. It shows the infant mortality to be 111 per 1,000.

The report says: "Surely something can be done to mitigate this waste of infant life," and the following table is presented:

In Halifax.....	1	infant	under 1 year	died for every	6 born
Dartmouth...	1	"	"	"	7
Glace Bay...	1	"	"	"	5
Sydney.....	1	"	"	"	6
North Sydney	1	"	"	"	4
Sidney Mines	1	"	"	"	9
Inverness....	1	"	"	"	5
Pictou.....	1	"	"	"	5
Westville....	1	"	"	"	11
New Glasgow	1	"	"	"	9
Stellarton ...	1	"	"	"	7
Windsor.....	1	"	"	"	7
Amherst.....	1	"	"	"	6
Springhill ...	1	"	"	"	7
Truro.....	1	"	"	"	9
Yarmouth ...	1	"	"	"	5

QUEBEC.

Out of every 1,000 children born in Montreal in 1909, 290 perished in the first year. In the report of Mr. J. W. Bonnier, Recorder of Vital Statistics for the Province of Quebec, the following tables appear:

"I thought it would be interesting to reproduce two lists hereunder which will give to the reader an idea of our infantile mortality, which becomes more considerable each year. It would be very easy, and without many costs to reduce this number of deaths. We pride ourselves of our high birth rate, but of what use, if we lose nearly 50 per cent. of our little ones? Surely on this point our reputation will not be envied by the foreign countries."

Infantile death rate from 0 to 1 year, compared to the total of deaths. (Still born excluded.) — Province of Quebec.

Years. (a)	Total of Deaths.		Out of 100 deaths at all ages, how many from gastro-enteritis from 0 to 2 years.
	At all ages.	0 to 5 years.	
1895.....	31,695	15,237	49.9
1896.....	30,219	14,272	47.2
1897.....	33,268	17,820	53.5
1898.....	30,810	14,132	45.8
1899.....	32,800	15,199	46.3
1900.....	32,778	14,480	44.1
1901.....	30,552	13,335	43.3
1902.....	27,408	10,934	39.8
1903.....	30,876	11,799	38.2
1904.....	30,549	10,526	34.1
1906.....	29,969	11,597	38.6
1908.....	34,247	16,334	47.7
Total.....	317,853	165,685	44.1

PROVINCE OF QUEBEC.

Years. (a)	Total of deaths at all ages.	Deaths from Diarrhœa and Enteritis.		Out of 1000 deaths at all ages, how many from gastro-enteritis from 0 to 2 years.
		More than 2 years.	Less than 2 years.	
1895	31,696	301	3,767	11.8
1896	31,004	115	3,349	10.8
1897	34,287	174	4,221	12.3
1898	31,871	210	4,302	13.1
1899	32,800	215	4,123	12.5
1900	32,778	258	4,359	13.2
1901	30,552	300	4,220	13.8
1902	27,408	206	3,384	12.3
1903	30,876	235	3,758	12.1
1904	30,549	253	4,213	13.7
1906	29,969	210	5,215	17.4
1908	34,247	216	5,716	16.6
Total	378,037	2,693	50,627	13.3

THE SANITARY DISTRICTS IN QUEBEC.

The Government of Quebec has been pleased to give its assent to a proposal, submitted to it by the Provincial Board of Health, to divide the Province into ten sanitary districts, each district to be in charge of a trained sanitarian, to be known as Assistant Inspector, who will represent the Provincial Board of Health and will give his whole time to the Province.

This is a great step in advance, and as the Government has further announced its intention of making these appointments in July, 1912, we may look forward to satisfactory progress in sanitary matters, and especially the reduction of infant mortality in Quebec.

MANITOBA.

For the year ending December 31, 1910, the infant mortality of Manitoba is 149 deaths to 1,000 births. It is however, the opinion of Mr. Rowland Dixon, the Clerk of Statistics, "that in a country like ours where a large number of the districts are sparsely settled and where as yet communication is only partially established the registration of births does not receive the attention which its importance warrants; again in the more populous districts owing to laxity in the administration of this Statute a large number of the Foreign element entirely neglect registration of births and it is only this year that special efforts have been put forth with a view of educating our population as to their duty in this respect, the result is that many children several years of age are being registered and a more complete registration of infants has obtained. The infant mortality rate for this year will, I am confident, be nearly half of what is shown in 1910, and more in accordance with existing conditions."

It will thus be seen that the educational method of reducing infant mortality is being promoted in Manitoba, and no doubt will have the speedy and satisfactory result predicted by Mr. Rowland Dixon. The report continues:

City.	Total Births.	Total Deaths under 1 year.	Infant Mortality	Percentage.
Winnipeg	3,772	627	166.2	34.7
Brandon	330	89	269.6	29.3
St. Boniface	252	61	242.0	15.6
Portage la Prairie	158	18	114.0	17.1
Rural	6,970	909	131.5	35.2

In general, one death out of every three that occurred during 1910 was that of an infant under one year of age, and nearly one out of every two was that of a child under five years. The foregoing table shows that relative to the total mortality, the number of deaths occurring at those ages is indeed very large and indicates what proportion of the total mortality can be prevented by measures aimed at the prevention of children's diseases.

A consideration of the deaths at the early years of life is of special importance not only because of the large number of deaths that occur during these years, but also because the number of deaths that are entirely preventable is probably greater proportionally for this period than for any other period of life and the causes that produce them can now be easily and successfully combatted. Great progress has been made in the reduction of infant mortality in England and other countries, and this Province, in face of the existing conditions, cannot afford to remain apathetic, but should direct special efforts towards the prevention of infant mortality. It is extremely desirable for such an important purpose that reliable statistics of infant mortality should be available.

The correct statement of "infant mortality," which term denotes the number of deaths of infants under one year of age, per thousand living births, depends on the accurate registration of births. This, it has been shown conclusively, under the heading of births, unfortunately is not being done at the present time in Manitoba.

This report for 1910 was presented to J. J. Golden, Inspector of Vital Statistics on March 6, 1911, and by him transmitted to the Hon. R. P. Roblin, Minister of Agriculture and Immigration, on the same day.

SASKATCHEWAN.

The infant mortality for the Province of Saskatchewan in 1910 was 129.49 to 1,000 births.

The Vital Statistics Report is part of the Report of the Hon. Minister of Agriculture.

ALBERTA.

Total number of birth registrations in 1909 is 6,897.

Total number of death registrations in 1909 is 2,662.

No information *re* the age at death is published, so that the infant mortality cannot be computed from the information supplied.

BRITISH COLUMBIA.

For the year ended December 31, 1910, number of registrations of births, 5,005; number of registrations of deaths, 3,221. This number of deaths includes all ages. (Persons who are Indians are not included.)

GREAT BRITAIN AND IRELAND.

The following tables, which are part of Dr. Arthur Newsholme's Report to the Local Government Board, show that the first ten years of the twentieth century the general death rate declined 20 per cent. but the infant death rate declined 30 per cent.

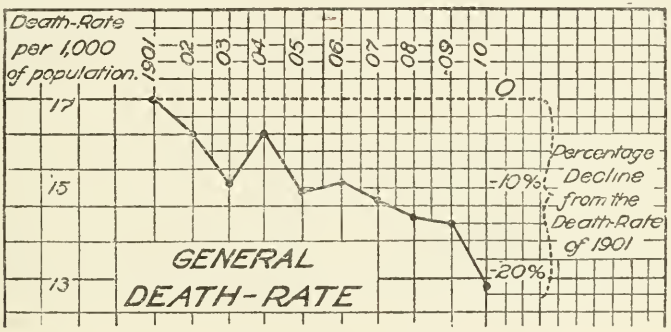

FIG. 1.

Annual Death-rate in England and Wales, 1901-10.*

Fig. 2 sets out the course of infant mortality during the last ten years. It was 30 per cent. lower in 1910 than in 1901:

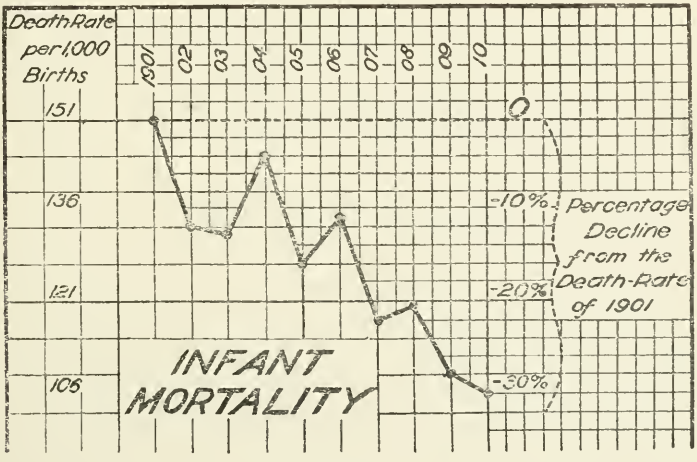

FIG. 2.

Annual Infant Mortality per 1,000 *Births in England and Wales,* 1901-10.*

"There has been a remarkable fall in the infantile death-rate; and, even after full allowance has been made for the series of years during which climatic conditions have been favorable to infant life, there can be no reasonable doubt that much of the reduction already secured has been caused by that "concentration" on the mother and child which has been a striking feature of the last few years. The amount of saving of life may be illustrated by a comparison of the average experience of 1896-1900 with that of 1910. In the latter year 897,100 births, and 94,828 deaths of infants under one year were registered in England and Wales. Had the experience of 1896-1900 held good, there would have been 45,120 more deaths of infants in 1910 than actually occurred.

"In a supplement to the annual report of your Medical Officer for 1909-10 his special report on Infant and Child Mortality was published (Cd. 5263); and in his annual report a more general review of the subject was given. In these reports the subject was dealt with on the basis of the statistics of the administrative counties of England and Wales. In a report, supplementary to this volume, which will be prepared as soon as practicable, the infant mortality in the large towns of England and Wales will be analysed. It will be convenient, therefore, to defer further remarks on infant mortality until the issue of the special report just mentioned."

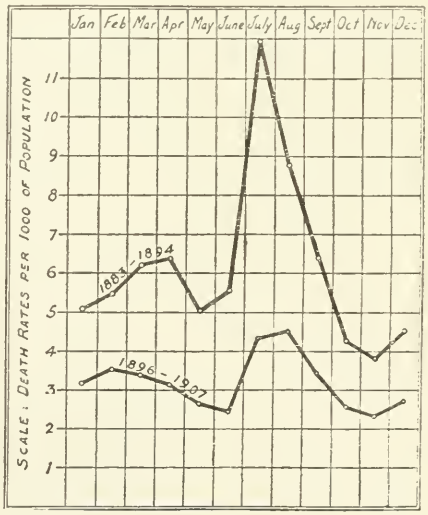

FIG. 3.

Average Monthly Death Rates of the two periods, Children under One Year of Age.

IRELAND.

The Women's National Health Association of Ireland, under the presidency of the Countess of Aberdeen, devotes much attention to the problem of infant mortality, especially in Dublin, where, for the weeks ending July 22, July 29, and August 5th, the number of infants who died was 31, 46 and 53 respectively. The city is divided into eight Sanitary Districts and the Association has placed a nurse in each district to visit the mothers and assist them in every way under the direction of the dispensary physician. While the rate of infant mortality in Ire-

land, as a whole, is lower than in England and Wales, and lower than in Scotland, the rate in the Irish towns is greater. The rate in Dublin was 142 per 1,000 births, and in Belfast 143 per 1,000 births.

The rate of infant mortality in the three countries for 1909 stands as follows:
Scotland 121 per 1,000 births.
England and Wales, 109 per 1,000 births
Ireland 92 per 1,000 births.

(The Registrar-General for Ireland in the *Lancet.*)

Greater Birmingham.

Greater Birmingham, which now has an area of 68 square miles, and a population of about 895,000 can point to a reduction in the infant mortality during the last 20 years. It has dropped from 182 per 1,000 to 130 per 1,000 and it is hoped that the work of women as Sanitary Inspectors will reduce it still farther.

Climate Conditions.

It is very well known that a hot and dry summer is much more fatal to little babies than a cool, wet summer. The summer of the Coronation year in England was a very remarkable one. The rainfall was about 3½ inches below the average. The sunshine was 284 hours in excess, and the temperature, every day but three, from the last week in June to the middle of September reached 70 degrees or more in the shade. And again the infant mortality rate proved itself a "sensitive index."

Deaths from Infant Diarrhoea in England and Wales.

1910—July, 58; August, 239; September, 342.
1911—July, 276; August, 2,666; September, 1,369.

Infant Mortality in London.

Mr. Harris, the Medical Health Officer of Islington, addressed to the Health Committee a special report on infant mortality, pointing out that the infant death rate for Islington was over 20 per cent.—407 deaths under one year old out of 1989 births, and that in Barnsbury it reached about 30 per cent., 297 deaths under one year to 1,000 deaths.

The Mother Did Not Know.

A special investigation was made of 201 deaths under one year. It was found again that the baby nursed at the mother's breast was almost safe. 182 of the 201 babies were fed in some other way, only 19 of the dead babies were nursed by the mother. Only 45 of the 201 mothers worked away from home, and 154 of them were strong and well. These 201 mothers, as Mr. Harris says, are the ones to be reached by instruction. Probably, nay almost certainly, all of the 182 could nurse the baby and they would if they knew it meant the baby's life, as it did for these 182 babies.

He Asked for Bread and They Gave Him a Stone.

Mr. Harris asked for an appropriation for Health Visitors, and the Health Committee of the Borough Council gave him an appropriation to print leaflets on the dangers of artificial feeding of infants. He asked for bread and they gave him a stone.

Sanitation.

Is infant mortality really dependent on sanitation and food supply?

If any one ever doubted it, we now have a proof thrust into our hands which no man may gainsay. No city in the world has a better or more modern and economical sanitary service than Liverpool. Take the disposal of refuse. There is a great municipal destructor on Charles St., where there is a wharf. Six hundred tons of refuse are brought here every day. This refuse is so well managed that instead of being worthless or a nuisance, it brings in an income of about $15,000.00 per year, or say $45.00 a day, by dint of sorting, *e.g.*, oyster shells are sorted out and ground up for hens to make new egg shells of. Scraps of metal are compressed into bales of 100 pounds each and easily sold. Clinkers are ground, mixed with cement and made into artificial flag stones, the best on the market, at the rate of 200 yards of paving stone per day for the clinkers of Liverpool, and the destructor supplies heat for four boilers, which supply power for the electricity needed in the city.

The Effect of the Strike.

All this ended when the strike was declared. The city not only lost the benefit of all these activities, lost in cash $45.00 per day, but as only 100 tons instead of 600 tons reached the destructor, then refuse, garbage and filth of all sorts accumulated in the streets and lanes of Liverpool at the rate of 500 tons every 24 hours.

From 1906 to 1910, the average number of deaths from infant diarrhœa for the four weeks of August were respectively:

August.		1911.
1st	week..... 23	81
2nd	" 34	132
3rd	" 52	159
4th	" 63	140

The intensely hot weather did make the situation worse, but the evil of the strike was worse still. Even the work of Sanitary Inspectors was stopped and the work of the lady Inspectors, so valuable, was also stopped completely by the strike.

Dr. E. W. Hope, the Medical Health Officer of Liverpool, who is known all over the world as a Sanitary Reformer, has prepared a special report on this subject, from which the above is taken.

A Great Improvement.

Terrible as the increase in infant mortality caused by a hot and dry summer is, we yet can see that this increase is not as great as it would formerly have been.

Dr. Symons, M. O. H. of Bath, points out that in Bath infant mortality was as follows for July, August and September only, from 1896 to 1911:

1896—1900	141
1901—1905	91
1906—1911	86

A great improvement in spite of the unfavorable season.

The Government Letter.

During the summer of 1911 a step of much significance was taken by the Local Government Board. On August 18th, 1911, a letter intimating the concern with which the Government was watching the daily rise in infant mortality, was sent from Whitehall to every sanitary authority in England and Wales, through the Town Clerk or the clerk to the District Council. The subject of the letter was

Prevalence of Epidemic Diarrhoea Amongst Children.

"Firstly, it is important that exact advice should be given as to the feeding and management of children, and more generally as to preventing the exposure of their food to contamination from decomposing organic matter. The distribution of clearly worded leaflets is useful in this connection; but even more important are personal visits and the offer of practical advice to the mothers of babies born within the last twelve months. Exact and simple instructions are most likely to be followed if given during a period of special danger. In districts and towns in which the Notification of Births Act has been adopted, the records obtained under that Act will give valuable information in selecting the homes to which visits are now most urgently required.

Secondly, the full value of the personal instructions indicated above cannot be realised unless vigorous efforts are made to prevent the accumulation in or in the vicinity of the house of decomposing animal and vegetable matter. It is not necessary to do more than mention the importance of efficient scavenging, of frequent and, if practicable, daily removal of house and stable refuse, of domestic cleanliness, and of keeping all food properly protected. The Council may consider it advisable during the next few weeks to divert the sanitary inspectors from less urgent work, and to instruct them to make rapid visits with a view to securing efficient sanitation, especially in and about the houses of the working classes.

Thirdly, it is important that the Council should promptly ascertain in which parts of their district diarrhœa is especially prevalent, and should devote close attention to street and court scavenging and to the removal of stable and domestic refuse in these areas. Without waiting for the weekly death returns, efforts should be made to obtain information of cases of diarrhœa from health visitors and others who make domestic visits; and to impress upon parents the importance of immediate treatment of infantile diarrhœa. Apart from the medical notification of cases of epidemic diarrhœa in children, the visits of health visitors can be utilised for impressing upon parents the seriousness of diarrhœa amongst young children and the desirability of information being given to the Medical Officer of Health should a case of diarrhœa occur.

"The Board will be glad if the Medical Officer of Health, in his annual report dealing with the current year, will set out the course of action adopted in the district to prevent diarrhœa and child mortality generally, in the special circumstances of the present year."

Good Business.

This is what is popularly called "good business," and the prevailing feeling among us (perhaps not entirely without foundation) that our business methods are somewhat more modern and adaptable than those followed in England could not find a better justification than a swift application of modern business sanitary methods to cut our infant mortality rate (of four babies every day in Toronto, for example) in two and then cut that rate in two again. Two babies a day is enough for Toronto to bury, and when we bury only two a day then we shall feel one baby a day is all we can afford to bury.

THE DOMINION OF NEW ZEALAND AND THE COMMONWEALTH OF AUSTRALIA.

Our sister Dominions beyond the seas lead the world in low infant mortality. In New Zealand and Australia the terrible figures now recorded in Canada are apparently unknown.

The World's Record.

South Australia and New Zealand both show a rate of 71 deaths under one year of age per 1,000 births. West Australia in 1910 had an infant mortality of 78 and Tasmania shows, in the last report of the Chief Health Officer, Dr. J. S. Purdy, a rate of 65 per 1,000 births.

The following figures show that steady progress has been made towards this low rate of infant mortality:

Western Australia	97.7
New South Wales	88.6
Queensland	77.2
Victoria	72.6
Tasmania	83.0
New Zealand	88.9

(Quoted by Dr. Helen Mayo for 1907.)

How To Do It.

The Society for the Health of Women and Children in New Zealand has helped to do this. It was founded in 1907 "to help the mothers and save the babies," and they do help the mothers and save the babies. There are now branches of the Society all over the Dominion, but only one Central Home, the Karitane Hospital, at Dunedin, where the nurses are trained. The first branch was founded here in 1907 by Dr. Truby King, and the Karitane Hospital was opened by the Society in Dr. Truby King's home in 1908 because there was no provision in the General Hospital for sick children under two years of age, except for surgical cases. Mrs. King is the President of the Society.

The Karitane Home deals only with cases of malnutrition, improper feeding, infant diarrhoea, etc. It began in a cottage of seven rooms with three nurses. It now has a matron and eight nurses. In 1910 Mr. Wolf Harris bought the Home and presented it to the Society. The babies of the poor are taken and the babies of the rich. The former are often paid for (5s. a week) by the Charitable Aid Board. The Government give an annual grant of £500. At the Karitane Home a certificated General Hospital nurse must take three months' training and a maternity nurse six months' training before applying for an appointment as a "Plunket Nurse." There are twelve such nurses in New Zealand employed by the various branches of the Society.

A Canadian in New Zealand.

Plunket nurses are called after Lady Plunket, wife of the Governor of New Zealand, and youngest daughter of the late Marquis of Dufferin and Ava. She is a Canadian, as she was born at Ottawa when Lord Dufferin was Governor-General of Canada. It was she and Lord Plunket who prepared and published a leaflet to help this Society, which to quote Lady Plunket's own words was established, "For the sake of women and children, for the advancement of the Dominion, and for the honour of the Empire."

Nurses.

Another good thing done at the Karitane Home is the training of children's nurses. Girls without any previous training in nursing are trained for twelve months, and then on passing an examination are given a certificate as baby's nurse.

Immigration.

It may, of course, be said that in the Commonwealth of Australia and the Dominion of New Zealand there is not the large immigration that now yearly comes to Canada and probably influences our infant mortality adversely. Perhaps, but we know nothing accurately about it. How do we know that the immigrant's baby dies oftenest? The whole subject needs thorough investigation.

State Children.

If one seeks to know why the infant mortality in Australia and New Zealand is so low the most obvious answer is the attitude of the Government. It acknowledges its responsibility for these children. Children not otherwise provided for are called State children. And this name means that the State sees that they have a home. Nor does the State refuse to acknowledge them until they are of an age when adoption is easy. For one person who is willing to take a child under one year old into the home there are many who are willing to take a child of four or five. In Australia as well as in Hungary a mother and a home is found for the child by the State and the real relatives are obliged to pay for its maintenance. The foster-mother is thus repaid for the service she does to the State, and the State causes the relatives to make this payment, or if this is impossible, then the State makes the payment for State children.

Institutions.

It has been shown again and again, and cannot be emphasized too much, that the institution for a baby, is a fatal failure compared with a home. We should set our faces against institutions in Canada, except for the very few Canadians, insane, feeble-minded, chronic criminals, etc., who cannot make good outside an institution.

Who Need an Institution.

For the patient, the hospital is the place. It gives him his best chance to fight for his life and to win. Health returns and the first use the patient should make of it is to leave the Hospital.

To the mentally diseased, the psychiatric ward, the Psychiatric Hospital is more imperative still. Almost always one may say that the patient's chance of recovery is seriously risked by keeping him at home. For the feeble-minded and the habitual criminal, society must provide an institution in self-defence.

Not for the Baby.

But for the baby the institution is an impossible solution and the baby simply proves it by vanishing out of life. Hungary and some of our sister Australian Provinces have found the solution—the same that Egyptian princess found for the baby floating on the Nile in an ark of bulrushes.

I Will Give Thee Thy Wages.

These States call destitute or deserted infants their children—State children, and they choose foster-mothers as carefully as Miriam selected the Hebrew woman whom she recommended to Pharaoh's daughter and they say to them what Pharaoh's daughter said: "Take this child away and nurse it for me, and I will give thee thy wages."

The Illegitimate Child.

One class of infants adds an awful burden to the infant mortality. The child that has no father. Repudiated and disowned by the man who is responsible for its existence, it begins that existence under a handicap so overwhelming that it is next to unknown for such a child to obtain a footing in the community. Surely the fact that such a child is disowned should justify the community in going one step farther and ordering that since that dishonorable fact is the only one known about the innocent child, the iniquity and desertion of the father should entitle the child to the protection of the State. To "rescue" the woman at the expense of the child or with little thought or concern for the poor child, is a matter of doubtful morality.

Death by Starvation.

Many of these children are strong and healthy. But their death rate is almost twice as great as the death rate of legitimate children. That death is often simply murder, and a slow and cruel murder of a helpless victim. It is time we faced and thought out this matter of what to do about the illegitimate child.

How many illegitimate children are there in that ghastly death roll of 1,727 in Toronto? We do not know. We have no information on that point in the report of the Registrar-General for 1909, nor any about the 8,768 infants who died in Ontario in 1909 under one year old.

A Slow Form of Murder.

Dr. Wodehouse, M. O. H. of Fort William, says: "The mortality and conditions surrounding illegitimate babies of our city are appalling—wilfully wrong feeding apparently being a slow form of murder."

How Old are the Mothers?

The age of protection of girls, sometimes called the age of consent, should be raised. And there is great need to know the age of these unhappy mothers. It was stated at a conference in Australia that in one of the Australian Colonies where the matter had been investigated in 1906 it was found that 200 of these mothers were under 16 years of age and 20 were under 14 years.

Public Opinion.

Signs are not wanting that down far down below the surface of national life and thought there is a rising conviction that all is not well with the nation who can give no better account of its civilization and stewardship than that furnished by our infant mortality returns in Great Britain, the United States and Canada. Take up any newspaper, magazine or review and you will find some such expression on its pages as there is in *The Spectator* of November 11th, 1911, written by Miss M. Loane from her unsurpassed and shrewd knowledge of the very class which must be reached to improve infant mortality. Miss Loane remarks that we are all agreed as to the value of child life and from a national as well as a humanitarian standpoint are determined to preserve it.

Who is Responsible?

The question is, who is to preserve the child? Manifestly the parents and the State both have responsibility for this. Yet this is a world not yet very efficient in its organization and "the State may (and not infrequently does) materialize as a man clerk presenting leaflets to an illiterate woman, or as a Poor Law Guardian of rather forbidding exterior perfunctorily questioning boarded-out children twice a year, or a Sanitary Inspector with a district so large and duties so varied that a conscientious person would speedily be driven to his grave or a lunatic asylum. The parents may be a half-witted woman and a street-corner man, or (more probably) a factory hand and a casual labourer, they may be represented by a penniless, friendless girl, or, far worse, by her elder sister, who recalls with grim satisfaction that the last didn't trouble her long, not after she left the house."

Maternal Nursing.

Miss Loane, in common with every one who is capable of giving intelligent thought to the subject, speaks of the all-importance to the child of maternal nursing, and also adds that when the baby is weaned, between 8 or 10 months of age, or in the very few cases where maternal nursing is truly impossible we may

be fairly well satisfied if the child is fed solely on fresh milk served in an absolutely clean bottle and raised to blood heat by the addition of a little boiling water, and if the meals are given at regular intervals. "The teacher must be careful to speak as if convinced that the mother wishes to do her utmost for the child, and as if it were quite possible to be a most respectable and intelligent woman and yet be in need of a little instruction as to the artificial feeding of infants."

Blame the Mother.

The popular fashion of the day is to "come down on" the mother, to say that she "does not know her business," should be ashamed to look a respectable tabby cat in the face, etc., etc., etc.

The average mother is a heroine. The soldier who goes to the battlefield, whether he returns again or not, has shown his willingness to lay down his life and the mother does the same. But what avails her sacrifice if the light of that life which she is willing to give her own life for is only to flicker for a few months and then go out forever? "To bear—to rear—and then to lose." And is it better or worse when instead of swift and merciful death we have the long struggle of the severely handicapped for a bare existence? There is no handicap like bad health.

Manufacturing Unfit Citizens.

When nearly 7,000 babies were put under the sod in Ontario in 1909 the disaster did not end there. It has now been proved that where the infant death rate is high the general death rate is high too. And the same want of proper care and want of proper feeding and general unsanitary conditions which slew the seven thousand babies in Ontario in 1909 cause in the survivors a condition of unfitness and inability to meet the demands of able-bodied citizenship which costs the community dear and has caused in older countries a serious deterioration of the national physique.

The Rest of the Family.

It may be mentioned in passing that all the members of the family, and indeed every citizen of a civilized country, should know something about a baby. As Miss Loane says, "time bestowed upon the father's instruction is rarely wasted, especially if devoted to general warnings and recommendations as to the ventilation of the house and the proper condition of yard and drainage." "The grandmother should be specially warned as to the danger of soothing syrups and teething powders."

Give the Mother a Chance.

Before we can be righteously indignant with the mother for not knowing her business, we should see that some chance is given her to learn that business. How, when and where are the mothers of the babies to be born in 1925 to learn their business? They should learn it both in the home and in the school. The opportunity may not occur in the home. It should be given in the school. Girls of 11 to 14 years of age may and do learn an infinite deal about the home and the baby whenever they get the chance in school. Residential schools, elementary schools and other schools for girls are fast introducing lessons on home management.

These are very popular with the girls if they are at all well conducted and if the teacher is really interested in them. Miss Hitching, organizer and inspector of Home Management to the Derby County Council says:

To Run a House.

"To run a house" smoothly and well is an achievement of which any woman, even the highest and most cultured, may well be proud. No work is more responsible for weal or woe; none is harder or more engrossing; none needs more forethought and a greater amount of common sense; none more careful training. Far too long has it been taken for granted that, to a woman, the proper management of a home and an infant comes by instinct. In very many homes husband and child are made the unwilling victims of various experiments, that spoil the digestion and the temper of the one, and not infrequently end the life of the other. It is a splendid thing for the nation, that on all sides people are beginning to realize that no longer must the education of the future wife and mother be left to chance; that to allow girls to leave our schools able to do the hundred-and-one things that *don't* matter, but totally unable to do the one thing that *does*, is a great and costly mistake.

Lessons for the Elder Girls.

"Standard VI. take up the important subject of Infant Management—the washing, dressing, feeding, and 'minding.' A life-size baby-doll is used for practice, but a real baby is brought into school, and washed and dressed in front of the girls. Practice is given in the mixing of food for the various ages, when mother's milk is out of the question. The lessons are given in a most *matter-of-fact* way, and in an *intensely earnest* manner, which never fails to impress and set the 'tone.' With a nearly twenty years' experience of teaching home management, I would say that no part of it is more important than infant management. We are so in the habit of taking it for granted that every girl has the opportunity of nursing a baby *at home!* In a class of seventeen Standard VII. girls, only three had a baby at home under 2 years of age! I tested the other classes with similar results.

"If taught in the right way the lessons are immensely enjoyed. I would like readers of *The Child* to see the intensely earnest look in the girls' eyes as they tell visitors that 'a baby has a *right* to its mother's milk—that cows' milk was meant for calves, not for babies!"—*The Child.*

Little Mothers in the United States.

American cities are introducing the same thing. New York has its "Little Mothers' Leagues," and Chicago its "Little Mothers' Classes" in the schools.

In New York the Department of Health has been able, by an educational campaign, to reduce infant mortality. The corps of physicians and nurses who visited from house to house and took part in the various activities for infant welfare found that a great deal could be done to teach the older girls, and consequently in 1910 Dr. S. Josephine Baker, the head of the Division of Child Hygiene in the Department of Health organized the older girls at home and at school, into Little Mothers' Leagues. In May and June, 1911, the physicians and nurses gave lectures and demonstrations at schools attended by girls of twelve years of age and over, and 183 Little Mothers' Leagues were organized to care for the babies.

The Sword of Herod. Ignorance.

If the sword of Herod is ignorance, then those who fight for the baby's life must be armed with the sword of knowledge. Certain very simple and all-important matters are really not adequately known. Even nursing by the mother is thought by some people to admit of argument, perhaps because every newspaper, journal and magazine, the bill-board, the druggist's window, and the conversation of the average mother's acquaintances teems with allusions to the miraculous effect of somebody's food for infants at so many cents a tin.

The First Day Settles the Baby's Fate.

The fate of the baby is frequently settled in the first twenty-four hours of its life. The mother herself and the nurse caring for her, should know that the baby should be placed at the mother's breast and so taught to nurse just as soon after the birth as the mother has slept and rested and been made comfortable (including giving her a cup of warm food). Now, if the baby is placed at the breast and taught how to nurse, in all human probability, it will escape the ills which carried off, in this Province in 1909, 132 per thousand of our children under one year old. In all but very exceptional cases the baby needs no teaching.

What the Baby Knows.

Two things that the new born almost invariably knows are how to grasp with its fingers and how to suck with its lips. Present anything of a suitable size to the tiny hand or to the tiny mouth and your part is done. The baby does the rest. But if this is not done on the first day of life when it is easy, it will be found difficult on the second day and almost impossible later on.

Hence the absolute and indeed over-whelming necessity of having births certified within 24 hours so that the greatest chance of health and welfare may not be missed for the baby.

How To Do It.

As soon as the child begins to nurse the quantity of the milk increases from day to day for several days. A liberal quantity of good plain food and fresh air for the mother will increase the milk and the quality of the milk. One or two cups of good milk half an hour before nursing also helps.

Tell Them All.

Hence the indispensable importance of educating not only the mothers, but the fathers and the grandmothers, and the "Little Mothers" and the acquaintances and the whole community in this fundamental fact about the baby.

It can be Done.

Because the nation depends on the babies for its continuance, therefore, no good citizen can afford to neglect child welfare. The mother will do her part. Every effort is now being made by the manufacturer of infant foods, and the sellers of infant foods to get the mother to think that these certified foods are the best for the baby. Just the moment that the mother finds out that the little baby's life is

in danger every minute as long as he is a little baby unless she nurses him, just that minute she will make up her mind to nurse him if she can. Even if the mother has not nursed the last baby and is afraid she cannot nurse the next baby, that does not mean *that she cannot nurse the baby.* It only means that she *thinks* she cannot. Nature has made the provision. The mother with help and skilled care and an understanding person to handle the situation will nurse the next baby. Nursing or not nursing is no more an unalterable and irrevocable matter than any other mode of feeding is.

Watch the Baby.

The next critical time in the history of the baby is the change from maternal nursing to some other plan of feeding. Some of the modern plans of preventing infant mortality and the best skill of the community should be utilized now for the baby. Our wealthy citizens have fewer children, and infant mortality among them is very small. The babies of the rich are cared for by the best physician available assisted by a thoroughly trained maternity nurse, and few of them die. Quite right. But nearly all our children come to the middle class home and to the homes of the wage-workers, and many of them died in 1909. We must change that death-rate. If necessary these babies should be seen every week, as they are at infant consultations or by the nurse in charge of infant welfare for the Department of Health. If neither of these plans is in working order yet, then surely some sensible volunteer worker could pay two visits to the baby, at three months and six months of age, to weigh it and to see how it is doing and to help to keep it well. Sometimes, but not often, babies at that age may begin to need a little additional food, and this needs skilled advice. It is no small matter to carry a baby safely over this period.

The Baby's Food.

Then between the 8th and 10th month the baby should be seen several times and care taken to see that it starts well on the new plan of feeding necessary then. The truth is that the successful care of a baby depends on a world of small details, often repeated, and needing exact attention and real interest. In this it is like everything else that is worth doing. Besides the fundamental fact that maternal nursing is all-important at first there are many minor things. When the baby gets to about nine months of age, the milk supply gets to be all-important.

Keep Everything Clean.

Clean cow's milk, diluted and sweetened and kept in carefully covered bottles and kept cold must gradually replace maternal nursing. Summer is the time when infant diarrhœa is so fatal, and the poison reaches the baby through the dust and dirt that get into its milk, through the dirty rubber nipple, through the "comfort" that falls on the floor and is replaced in its mouth, through the deadly long rubber tube to the feeding-bottle that gives the bacteria their chance to multiply exceedingly and infect the milk.

A home-made refrigerator for the baby's milk costing a few cents (see p. 42) may be, and often is, the means of saving the baby's life.

A Cradle.

Another important detail in the care of the baby is its cradle. To the wage earner this need not be an expensive luxury. A good cradle may be made from a banana-crate at a cost of about ten cents. The father will do the carpentering necessary, the mother will make a soft mattress of chaff or sawdust. Over this put a piece of packing paper (tarred or varnished) or a piece of waterproof and the bed is ready for the sheets and blankets.

Keep the Baby Warm.

Few people realize how necessary it is to keep the baby's hands and feet warm. The baby has not yet sufficient vitality to keep itself warm as the grown person can. It must be warmed and kept warm, and the danger of burning a baby with a hot brick or a hot water bottle must not be lost sight of. And the wise nurse or volunteer worker to reduce infant mortality must remember that these precepts must be gone over and practically and acceptably put to the mother over and over again. In this work repetition makes certain.

The Expectant Mother.

We can never be too early in our efforts to save the baby. We are almost always too late, as Miss Loane says:

"Only too often no help or advice has been given to even the most ignorant mother until she has two children in their graves, one far on its way thither, and another deformed from malnutrition, and probably her own health ruined in addition."

Five or six months before the advent of the baby the mother should be visited by the nurse or other expert, her own health and comfort, especially her food, (the mother is self-denying) and her environment should be considered, first from the standpoint of the responsibility and ability of the husband and father and family and then from the standpoint of the community of which the coming child will be a member.

Get Ready.

Everything should be done to make the utmost of the family's private resources to prepare the baby's little outfit and to provide the necessary medical care and nursing. The housework and the care of the family for at least ten days or two weeks must be thought of. The great kindness of good neighbours, friends or relatives, who will come and take charge of things till the mother gets somewhat strong again must be sought for. Sometimes a Maternity Hospital is the place, but not always. The very presence of the mother in the house means so much.

Look After the Mother.

More and more the advantage and necessity of care for the expectant mother is being realized.

The New York Milk Committee, to whom no small share of the reduction in infant mortality in that city is to be attributed, determined in October, 1911, when the summer campaign ended to turn its attention to the prevention of infant deaths due to congenital troubles, which cause 17 per cent. of all infant deaths.

The committee is giving attention to 1,000 expectant mothers to enable them, if possible, to bring into the world children strong enough to meet the stress of life. An arrangement will be made with the Russell Sage Foundation by which a special nurse will be detailed for this work. In addition to medical care and hygienic precautions, help will be provided if the mother is overworked.

The Insurance Bill.

The much debated Insurance Bill in England contains a provision of 30s. for a Maternity Benefit. As Ald. Broadbent says, in the *Pall Mall Gazette*: "This is for the baby. First of all there must be absolute security for safety in birth; that is to say, the mother should have skilled medical attendance. But the life is not yet independent, because the mother has the key to the baby's food and the most part of the maternity benefit must be conditioned on the mother feeding the baby. With these two essentials adequately secured, probably the 30s. will be exhausted."

Legislation for the Mother.

The Maternity Benefit of the National Insurance Bill may be taken to mean that some sense of the importance of the care of the mother-to-be and the mother-that-is has at last been expressed in legislative enactment. But it does not go very far. The last two months before the baby's birth are of special importance and the mother should be cared for during that time. It is the right of the child to be nursed at the mother's breast and it is the right of the mother to nurse her child.

Economic Insanity.

It is ill for the nation that allows commercialism, or covetousness, or cruelty to do what Job says the wicked do—"They pluck the fatherless from the breast." It is the fatherless who are most in danger of this loss. The mother has to earn for them. This is economic folly—yes, more—it is economic insanity. What man in his right mind would pluck the baby from the mother's breast? It is a tragedy that the mother for any reason should be taken from the work of caring for little children, work indispensable for the welfare of the State, work that no one else can really do but the mother. Some way should be found to give the mother enough to live on at least while she has a baby to care for.

The Young Physicians.

It is a sign of the times and a cheering one, that our physicians, and especially the young physicians, are beginning to devote more attention to the question of nursing by the mother. At the 1911 meeting of the Ontario Medical Association Dr. George Strathy, in a valuable paper on the "Difficulties in Breast-feeding," points out how frequently nursing by the mother is discontinued on account of some slight digestive disturbance that might easily be remedied. If the baby is not thriving, not gaining in weight, then find out by the test-feed, *i.e.* (weighing the baby before and after the nursing), how much milk the child is really getting. If the quantity (usually 6 oz.) is sufficient, then is the quality good? Is the mother tired, over-worked, run-down, underfed? If so, then less work, a mid-day rest, better food will set things right both for mother and baby.

Sometimes on the other hand, the child's weight is good, but it is distressed by colic. This is most frequently caused by, (1) Irregular Feeding. Remedy, Feed by the clock. (2) By stale milk. Sometimes the breast is not completely emptied at one feeding and this milk, remaining in the breast too long is distasteful to the baby and causes colic. Remedy, The breast should be completely emptied after nursing, by the breast pump if necessary. (3) The baby gets too much milk. A strong baby will sometimes get six ounces in five minutes and if allowed to go on for the usual fifteen minutes gets the stomach dilated and consequently suffers. Remedy, see that the child does not get too much milk. (4) Lack of digestive juices. Remedy, the doctor will prescribe some medicine to help this condition.

The Test Feed.

Another important paper published in 1911 was that by Dr. Eric Pritchard in the *Lancet*, on Breast Feeding; The Value of the Test-Feed.

By the test-feed is meant the actual amount of milk which the infant gets at one nursing, ascertained by weighing it before and after. This is found to vary from two ounces to eight ounces. So many observations were made by Dr. Pritchard and his colleagues in three institutions and in private cases—(in one institution alone 9,435 observations were made) and so carefully is everything recorded, such as age, number of feedings in the 24 hours. total number of ounces of milk got in the 24 hours, etc., etc., etc., that these researches will probably become classic. The cases were finally arranged in three groups:

(1) Those obtaining less than 10 oz. milk in 24 hours.

(2) Those obtaining from 10 oz. to 20 oz. milk in 24 hours.

(3) Those obtaining over 20 oz. milk in 24 hours.

Just as one finds in grown people, it is not the baby who takes the most food that thrives best.

The Starved Baby.

Any doctor or nurse or medical student who has attended the out patient department of a Children's Hospital, or even of a General Hospital, knows the story of the starved baby only too well. Here it is as Dr. E. H. R. Harris writes it in the *British Journal of Children's Diseases*:

Panic.

"The prevailing state of mind of the mother who sees that her bottle-fed baby is not thriving appears to border on panic. She rushes wildly from one food to another, and the unfortunate child is tried for two or three days on a patent mixture recommended by a neighbour, only to have it changed—at the behest of another neighbour or the local chemist—for another certain success. Meanwhile the infant wastes with more or less rapidity, and the maddened intestinal tract is driven to revolt and to reject everything 'fore and aft.'

"Case 1.—F.D—, full-time male, aged 6½ months. Breast to four months. Weight then was 21 lb. Since then has been fed on cow's milk and barley water, and for the last *month* on barley-water only. Present weight, 14 lb. 4 oz. Diarrhœa and vomiting. Boat bottle. Father, dock labourer; mother does outside housework.

"Case 4.—J. G—, full-time male, aged 4 months; 7 lb. 5 oz. at birth. First child, born in lying-in hospital; breast-fed for one month, at which time mother left hospital and gave up breast-feeding, although she had plenty of milk. Father died in epileptic fit and mother has to work. Since breast has had cow's milk and barley-water and then a patent food. Wasting; present weight 7 lb. 10 oz. Boat bottle. The child had gained 5 oz. in weight in the four months of its existence."

Could anything be plainer than that if the maternal nursing had not been given up the baby would have continued to thrive. Think of feeding a human being on barley water for *a month!*

Think a Little.

The more we know about the nursing mother and the more she knows about nursing, the better for Ontario. It is not so easy as it looks. As Dr. E. V. Davis says, in the *Weekly Bulletin* of the Chicago Department of Health:

In Chicago last summer fifteen bottle-fed babies died to every one that was breast fed. Mothers should be made to appreciate this fact when bottle feeding is contemplated.

You can dry up a mother's milk by putting the baby to her breast only at long intervals, say morning and evening, or only at night. Such habits will spoil the best wet nurse ever created.

You can check a mother's milk by constant or too many night feedings or by disturbing the woman's hours of sleep in any other way.

You can spoil the best breast milk in the world by feeding the woman too rich food, giving her alcoholic tonics and checking normal exercise.

You can "upset" the baby by putting it to the breast too frequently, loading a half-empty stomach with a fresh meal. Vomiting, colic, green stools and diarrhœa are some of the results.

You can get the best results by first knowing what the wet nurse yields to her baby by a system of weighing the child before and after nursing. Every baby doctor should keep suitable scales to rent or lend for this purpose until he is satisfied on the matter.

The interval between nursings can best be regulated when you know how much milk the baby gets in twenty-four hours. An ordinary baby will thrive best on not more than seven meals in twenty-four hours during the first three months of life, and often will do as well or better on six feedings. An effort should be made early to cut down night feedings, as it favours the welfare of both mother and child.

When the yield of breast milk is scanty and the child not gaining, give an ounce or two of artificial food just after its nursing, rather than omit a breast feeding altogether, if the child is under six months or even older, and if the time be midsummer, as such a method keeps the breasts up to their best yielding capacity. The old way of substituting a bottle for one or two feedings only checks the yield of milk all the more.

Nonsense.

Another favorite fiction is that "the milk dried up on the fourth day," or that the mother "lost the milk on the fourth day." The reason that people think the milk dries up on the fourth day is because the breast becomes soft and small. Why? Because the gland cells about the fourth day are changed into the "colo-

strum," which secretion is then drawn from the breast by the baby and is not replaced for perhaps a few hours by the milk which now begins to be secreted in larger quantity. But the milk has not "dried up," on the contrary the full flow of milk is just about to be established. Two cases from real life may serve to illustrate this. They are taken from a paper in the *Clinical Journal,* by Dr. Eric Pritchard, February 2nd, 1910:

Two Interesting Little Stories.

A Baby (A. B.—), born January 1th, 1907, was brought to my "infant consultations" at the St. Marylebone General Dispensary on January 17, 1907. At birth the infant weighed 7 lb. 10 oz.; it now weighed 6 lb. 14 oz.—a loss of 12 oz. in fourteen days. It had been put to the breast regularly.

The nursling, though somewhat thin, was in good condition, had a good color, and had never been sick. I suspected under-feeding from the symptoms, but was surprised to find the mother's breasts well developed, and affording the usual stream of milk on compression of the nipple. A test-feed was arranged, and, after waiting two hours since the last feed, the infant was put to the breast. The scales proved that the infant obtained less than two teaspoonfuls of milk. I therefore ordered the mother to give the baby one ounce of whey and twenty drops of cream alternately with breast feedings. During the following six days the test-feed showed that the amount of breast milk did not increase, but, all the same, the infant recovered part of the loss in weight, for on January 24th it weighed 7 lb. 4 oz.—a gain of 6 oz. The whey and cream mixture was increased on January 24th to one and a half ounces of whey and thirty drops of cream, and the mother, who was very anxious to nurse her baby, was encouraged in every way to persevere with breast feeding. On January 28th, that is to say, four days later, the scales registered a gain of half a pound in weight, but the test-feed still proved that this gain was in no way due to breast feeding, for the infant only abstracted one teaspoonful of milk from the breast. On February 4th the infant had gained a further half-pound in weight, but now the test-feed proved that the infant was obtaining a full amount (3 oz.) from the breast. The whey mixture was consequently suspended, and the infant continued to make uninterrupted progress; in fact, he proved to be a particularly fine baby, and was one of the prize-winners at our 1907 baby show.

This case is of peculiar interest, because it shows that with patience and perseverance an apparently non-active breast may ultimately secrete a good supply of milk provided that the infant can supply the necessary stimulus, and that the psychological factor is called into requisition. Encouragement on the part of the doctor and confidence on the part of the mother are most important elements in the treatment.

To show how mistakes in this connection may arise, I will again quote the case of an infant who was born in August last in one of our maternity institutions. The baby was brought to my consultations at the end of November; it was bottle-fed and doing badly. I asked the mother why she was not nursing it. She told me that her milk had disappeared on the fourth day, and that the authorities in the institution had told her that she must bring the infant up on the bottle. The infant was consequently supplied with a diluted milk mixture, and hence the present trouble. But the interesting part of this case was that the mother, under the impression that she would thereby avert a second pregnancy, surreptitiously put the

infant to the breast at night, and had continued to do so ever since. I asked her whether she thought this practice was of any advantage to the baby, but she told me that she knew it was not, as she had no milk. More out of curiosity than for any other reason I ordered a test-feed to be given there and then. To my surprise, and to the mother's surprise, the weighing proved that the infant had extracted from the breast 3 oz. of milk. I promptly ordered a suspension of the artificial feeding, and when I saw the infant last it was flourishing on breast feeding alone.

For Babies Nine Months Old or Older.

The best bottle for the baby:

(1) One that has no tube.

(2) One that has no corners.

(3) One with a wide opening.

(4) A nipple that fits directly over the wide opening.

Care of the bottle:

(1) Keep a little covered pan for the bottle and the nipple.

(2) Fill the pan with a quart of water in which a teaspoonful of baking soda is dissolved.

(3) Take the nipple off the bottle and turn it inside out, empty out any milk left; rinse bottle and nipple with cold water, then put the bottle and nipple into the pan and boil about ten minutes. The bottle and nipple are now clean. Cover the pan and leave it until time for next nursing. Do not use the same water twice.

Milk for the Baby.

The milk must be good, not skimmed and watery, and kept clean and cold in a sealed or capped bottle till it gets into the baby's bottle. Then hot water may be added to warm it and a little milk-sugar (to be bought at the druggist's) to sweeten it, and perhaps a little cream to enrich it.

Good milk may be made bad:

(1) By not keeping it covered, as in a sealed or capped bottle, from dust, dirt and flies.

(2) By not keeping it cool.

(3) By keeping it too long. Give baby fresh milk never more than 24 hours old, and the fresher the better.

(4) By putting it into any vessel that has not been boiled just before or at least rinsed out with boiling water.

(5) By using a dirty nipple or bottle. Nipples and bottles are not clean enough for a baby's milk unless they have been boiled and kept clean.

Hints on Feeding.

It is well known that no baby nursed by the mother should have its food changed to cow's milk or anything else in the hot weather if this may by any means be avoided. About eight or nine months after birth is soon enough to give the baby artificial food. The baby then has several teeth, which is nature's notice that the baby can digest artificial food.

Olive Oil.

When a baby is not thriving, try giving a few drops of the best olive oil on its tongue from a clean medicine dropper. The oil may be sweetened a little with milk sugar. If the baby takes this well, increase it very gradually until a small teaspoonful is given three times a day.

At the age of about nine months the healthy thriving child can digest good clean cow's milk, with but little hot water and milk sugar added. "Top milk" is usually good for this purpose. But the change from nursing by the mother to nursing by the bottle is a great one to the child.

How to Make Whey.

One pint of good milk. (This makes about 12 ounces of whey.)
Liquid Rennet (3 ounces cost about 25 cents).
A dairy thermometer (cost 25 cents).
(1) Heat the pint of milk to 98½ degrees.
(2) Season with salt.
(3) Pour into a warm bowl.
(4) Stir in gently one teaspoonful of liquid rennet, mixing all thoroughly.
(5) Set the bowl in a moderately warm place, where it will not get cold or be shaken.
(6) When it has formed a firm jelly (which should be in a few minutes) break the jelly up thoroughly, strain it, and heat the liquid to 150 degrees, stirring it well for a few minutes at this temperature. Strain again and set away ready for use.
(7) Add cream, milk sugar, or water according to the doctor's directions. No baby should be fed on whey except by a doctor's directions, as there is not much nourishment in it.

Cow's Milk.

One great difficulty about cow's milk is that it forms a tough curd in the infant's stomach. It may be rendered more easily digestible by adding one grain or two grains of Sodium Citrate to one ounce of milk. A doctor should order the exact amount. But this is a useful fact to know. It is a modern plan for helping the baby to thrive.

Sugar.

The mother's milk has more sugar in it than cow's milk has. Hence it is a good thing to add a little sugar to each feeding of cow's milk. The best form is milk sugar (bought at any drug store), but any pure sugar will do. Add a small teaspoonful to about six ounces of milk.

Water.

Cow's milk is more easily digested by the baby if a little water is added. This should always be boiled first to be sure that it is perfectly clean, except in very warm weather, the addition of boiling water makes the milk a better temperature. The convenient way to add milk sugar (see above) is to add it to the water.

To Make One Quart of Oat or Barley Water.

Do not feed a baby on barley water alone, except by a doctor's advice, when the baby is ill. Otherwise there is danger of starving the baby.

Boil two tablespoonfuls of barley flour in a quart of water until it is reduced to half the quantity, then add sufficient water to make up the quart.

Always keep clean and well covered.

Mr. John Ross Robertson has added another to his many kindnesses to children by establishing a Pasteurizing Department in connection with the Hospital for Sick Children in Toronto, where modified milk mixtures for well babies are prepared. The following formulæ are those prescribed and recommended by the physicians of the hospital staff.

Formula No. 1—For 1 to 4 Weeks.

16% Cream, 1½ oz.
Whole Milk, ¾ oz.
Milk Sugar, 7 drams.
Lime Water, ¾ oz.
Boiled Water to 18 oz.
Fill 9 bottles, 2 oz. each. Feed every 2 hours.

Formula No. 2—For 2 to 3 Months.

16% Cream, 3 oz.
Whole Milk, 3 oz.
Milk Sugar, 9½ drams.
Lime Water, 1 oz.
Boiled Water to 24 oz.
Fill 8 bottles, 3 oz. each. Feed every 2½ hours.

Formula No. 3—For 4 to 5 Months.

16% Cream .....4½ oz.— 5¼
Whole Milk .....9 oz.—10½
Milk Sugar .....12 drams—12
Lime Water .....1½ oz.— 1½
Boiled Water to .....35 oz.—42
Fill 7 bottles, 6 oz. each. Feed every 3 hours.

Formula No. 4—For 6 to 7 Months.

16% Cream, 4½ oz.
Whole Milk, 13½ oz.
White Sugar, 1 oz.
Table Salt, small ¼ teaspoonful.
Barley Water, to 36 oz.
Fill 6 bottles, 6 oz. each. Feed every 3 hours.

Formula No. 5—For 8 to 9 Months.

16% Cream .....4⅜ oz.— 5
Whole Milk .....21⅞ oz.—25
White Sugar .....1½ oz.— 1½
Table Salt .....¼ teaspoonful— ¼
Oat or Barley Water to.....42 oz.—48
Fill 6 bottles, 8 oz. each. Feed every 3 hours.

For 10 to 12 Months.

Whole Milk.
Fill 5 bottles, 8 oz. each. Feed every 4 hours.

Pasteurize.

If you are not sure that the baby's milk is clean and the cow healthy, and the milker had clean hands and was careful, then it is at present safer to pasteurize your milk. Pasteurizing means heating the milk to about 180 degrees. Boiling raises it to 212 degrees, but boiled milk is not so good for the baby as fresh milk, nor is it as good as pasteurized milk? Do not keep milk more than 18 hours after pasteurizing it.

Directions for Home Pasteurization of Milk.

Use a metal pail or tin can which is several inches taller than the milk bottles. Fill the pail almost full of water and place it on the fire. When the water boils, set the pail off the stove. Now completely immerse the full-capped bottle in the water so that the cap is one-half to one inch under the surface. The immersing must be done quickly, otherwise the bottle is apt to break. Leave for twenty or thirty

minutes. Then remove the bottle and set it aside until it has cooled somewhat; after which it should be placed in a pail of running water under the cold-water faucet. The bottle should not be transferred directly from the hot water to the cold water, as this often causes it to break. When the milk has cooled thoroughly, place it in the ice-box until it is used.

Home-made Refrigerator.

Materials.	Cost.
Sawdust	10 cents.
1 butter tub with lid	"
Blue denim	"
Ice	3 cents.
1 empty lard pail	"

Make a cushion of the blue denim to fit inside the top of the butter tub. Place a thick layer of sawdust in the bottom of the butter tub. Wrap the ice in newspaper and put it in the bottom of the lard pail. Stand the milk bottle on the ice. Put on the lid of the pail and stand in the butter tub. Pack the sawdust all around the pail. Put on the cushion on top. Put on the lid of the tub. If the ice cannot be afforded, the milk, if cold when put in, will keep cold in such a sawdust box for 24 hours.

Common Sense.

No one who is not in direct contact with the problem of How to Feed Babies would believe it possible that people could show so little common sense about such a matter. Two women were overheard during the year at the Union Station, Toronto, comparing notes on what they gave their babies. One drew the line at raw onions, but the other considered this rule quite unnecessary. Miss Tyson, of the Children's Hospital, Chicago, met a tall, gaunt woman there one day with a small thin three-year-old girl who had serious eye disease. The nurse asked if she had other children. "Yes," she said, "I have two more and they are both sick. The one eighteen months has been sick ever since last Sunday, when I gave it a pork chop to eat, and the one four months has never been well; the Eagle brand milk does not agree with it!"

They Kill the Baby.

Instances have been found in Ontario of infants under one year old being given beer, bacon, and doughnuts. If it is possible to kill the baby, probably these articles of diet will do it.

Food That Suits the Baby.

There is another extreme—that of not giving the strong and healthy child food which would do it good. Oat jelly or stale bread crumbs would do to begin with. Oat jelly is made as follows:—

Soak 4 ounces of coarse oatmeal in a quart of cold water for 12 hours. The mixture is then boiled down so as to make a pint, and is strained through a fine cloth while it is hot. When cold a jelly is formed, which is to be kept cold until needed.

When the child is about one year old it is time to begin feeding it with a spoon. A little bread, one day old, may be added to the milk. As soon as possible it is better to do without a feeding-bottle. Some infants will not take bread until

the age of two years, or even older. Equal parts of oat jelly and milk, warmed, with a little salt added and occasionally a little broth, preferably chicken broth, with bread, may be used. At the age of twelve or thirteen months, the child should have about five meals a day, such as the following:

7.00 a.m. Stale bread crumbs, soaked in a breakfast cup of new milk.

9.30 a.m. Equal parts of oat jelly and milk, slightly warmed, and a little salt added to suit the infant's taste.

12.30 p.m. One-half pint of well-made chicken broth, with the fat carefully removed, and with stale bread crumbs soaked in it.

3.30 p.m. Equal parts of oat jelly and milk, warmed.

6.30 p.m. Same as 7.00 a.m.

At fourteen or fifteen months, some thoroughly boiled rice may be added to the diet list.

At sixteen months, a little butter of the best quality may be spread on the bread. Fresh bread should never be given. A crust of bread may occasionally be given, the infant will try its teeth upon it.

At eighteen months a well-baked white potato may be given, and at nineteen or twenty months eggs may be added.

At about fifteen months it is usually safe to try a little baked apple, or a teaspoonful of orange juice, and when peaches are in season, a small piece of a ripe peach may be given to a child in its second year, say about sixteen months.

At about two years and six months of age young peas and other easily digestible vegetables may be given, very carefully at first. Different fruits may now be tried, but they should be cooked.

Towards the end of the third year a small amount of meat may be given, but not every day, as meat is not required until the child is about three or four years of age. Chicken, mutton chop, roast beef and beefsteak are the best meats for young children. Great care should be taken that the meat is cut small and the child taught to masticate properly. A good plan is to give the child an egg one day and on alternate days meat or fish.

Never give cake or candy to a little child. Wait at least till the child goes to school.

Dangerous Drugs.

Almost all of the so-called soothing medicines given to infants, contain opium, morphine, or some other dangerous drug. They should never be given to any baby.

Mrs. Winslow's Soothing Syrup (morphine sulphate).
Children's Comfort (morphine sulphate).
Dr. Fahey's Pepsin Anodyne Compound (morphine sulphate).
Dr. Fahrney's Teething Syrup (morphine and chloroform).
Dr. Fowler's Strawberry and Peppermint Mixture (morphine).
Dr. Grove's Anodyne for Infant's (morphine sulphate).
Hooper's Anodyne, the Infants' Friend (morphine hydrochloride).
Jadway's Elixir for Infants (codein).
Dr. James' Soothing Syrup (heroin).
Koepp's Baby's Friend (morphine sulphate).
Dr. Miller's Anodyne for Babies (morphine sulphate and chloral hydrate).
Dr. Moffett's Teethina Teething Powders (powdered opium).
Victor Infant Relief (chloroform and cannabis indica).

Printed Advice to Mothers.

A great deal of good may be done by giving a mother a leaflet she can keep and read over often. The following leaflet is excellent.

HOW TO BRING UP A BABY.

Natural Feeding.

1. The natural food of a baby is its mother's milk. If the mother has enough good milk, the baby must have nothing else until it is eight or nine months old. Babies who are entirely breast-fed are stronger than bottle-fed babies. They thrive much better than bottle-fed babies, and they very rarely have summer diarrhœa.

Directions for Suckling.

2. Breast milk, *and nothing else,* is the proper food until a baby is eight or nine months old. Gruel, arrowroot, cornflour, biscuits, crusts, and patent foods must never be given.

3. If the mother has not enough milk, a bottle of fresh cow's milk and water may be given once or twice in 24 hours.

4. Always suckle the baby at regular intervals.

Whether a baby is fed by breast or bottle, it should not require feeding between 11 o'clock at night and 5 in the morning, after the first six weeks.

Allow at least 15 minutes for every feed by the breast or bottle.

Do not rock the baby after feeding.

Raise the head and shoulders for the baby to bring up the wind, after a feed, before laying it down.

5. Always lay your baby down awake, and do not sit with it till it goes to sleep; do not leave a light in the room.

6. Do not feed a baby every time it cries, as over-feeding is a frequent cause of illness. If it cries between its feeds, or at night, see that it is dry, that there are no pins or other discomforts, that its binder is not too tight, and, if nothing is found, it may be thirsty—give a teaspoonful or two of warm water only.

Directions for Weaning and Feeding Afterwards.

7. Do not begin to wean the baby, unless by a doctor's orders, until it is 8 or 9 months old. Wean entirely before the end of the first year. The way to begin to wean a baby is to give it good cow's milk two or three times a day, instead of the breast feeds.

8. At 8 or 9 months the child may also have *the yolk of one egg very lightly boiled* or *one tablespoonful of red gravy* once a day, *which may be given in one of the feeds.* At 10 or 11 months the milk may be thickened once a day with well-boiled oatmeal, strained through a fine hair sieve or coarse muslin, or bread soaked for an hour in cold water and then strained and thoroughly boiled in fresh water, or nursery biscuit. The food must be thin enough to pass through a fine strainer.

9. At 12 months a cup of beef tea or broth, a lightly boiled egg, or milk pudding, may be added. Be sure that the pudding is not lumpy.

10. At 18 months begin giving a little lean meat or fresh fish, scraped or pounded into a pulp; with this the child should have thin bread and butter and finely mashed potato. Plenty of milk should still be given.

Artificial Feeding.

11. A great deal more trouble must be taken to bring up a baby by hand than by breast feeding—because:—

(*a*) It is very difficult to obtain pure milk.
(*b*) Bottles, teats, jugs and spoons do not keep clean.
(*c*) Cow's milk has to be prepared to imitate human milk.
(*d*) The food is not at the heat of the breast milk.

Directions for Hand Feeding.

12. Fresh cow's milk (not condensed milk) should be obtained twice a day. *The milk should be scalded at once.* To do this, put the jug into a saucepan which has been half filled with cold water, place on the fire and bring to the boil. When the water is boiling, the milk is fit for use. The jug should then be placed in cold water, to keep the milk cool; and should be covered with a clean plate or slip of glass, to keep out dust and flies. All water put into the baby's food must have been *boiled.*

13. All bottles, teats, jugs and spoons should be cleaned directly after use; first with cold water, then with scalding water. Teats must be turned inside out for cleansing. Once a day put bottles and teats in a saucepan with cold water, and raise to the boil.

14. The best feeding bottle is boat shaped, marked in tablespoonfuls, with simply a leech-bite teat. Never use a feeding bottle with a rubber tube. Always keep two bottles in use and two teats or more. Bottles and teats after they have been scalded must be kept in a basin full of cold water that has been boiled.

Preparation of Food and Quantities.

15. All milk foods should be sweetened with sugar and given warm (not hot). The quantities of milk and water should be measured out.

Age of Child.	Milk.	Boiled Water.	Total Amount for each Meal.	Add Sugar.	Time.
During—					
1st fortnight	1 Tablespoon	2 Tablespoons	3 Tablespoons	½ Teaspoon	2 hours
2nd "	2 "	3 "	5 "	½ "	2 "
2nd month	2½ "	3½ "	6 "	½ "	2 "
3rd "	4 "	4 "	8 "	1 "	2½ "
4th "	5 "	4 "	9 "	1 "	3 "
5th "	6 "	4 "	10 "	1 "	3 "
6th "	8 "	4 "	12 "	1 "	3 "
7th "	9 "	4 "	13 "	1 "	3 "
8th "	10 "	4 "	14 "	1 "	3 "
9th "	12 "	4 "	16 "	1 "	3 "

Increase feeds very gradually, but feed by common sense, not by rule. If the baby seems unsatisfied, try the milk stronger. If the baby cannot digest it, try it weaker.

If the milk with plain water does not agree, give the same amount of barley water with the milk if the bowels are costive, and if the bowels are loose use lime water instead of plain water. If the child refuses the mixture, or vomits it, or if diarrhœa continues, the doctor must be consulted.

After 9 months the yoke of an egg may be mixed with a feed once a day.

Things to be Avoided.

1. Never force food down a child's throat, nor feed it when it retches.
2. Never keep the milk that the baby leaves for the next feed.
3. Never give skimmed or separated milk.
4. Never use a feeding-bottle with a rubber tube.
5. Never use a "dummy."
6. Never give a baby "just what is going," or "what you have yourselves."
7. Never give a baby teething powders, soothing syrups, tea, coffee, beer, wine, spirits, herrings or bloaters, new bread, pastry, cheese, nuts, or unripe fruits.

General Directions.

1. The Eyes.—The baby's eyes must be washed once a day at least. If the eyelids swell and run with matter and look red, tell the doctor at once, as delay is dangerous, and one or both eyes may become blind if not treated properly. The discharge is very catching. For removing it, tear quite clean linen rag or cotton wool into small pieces; do not put the same piece back into the water, but throw it in the fire, and take a fresh piece every time, before touching the eyes again.

2. Washing.—In order that the baby may thrive on its food, it should be protected from chills, which will upset its digestion. This can only be done by keeping its feet and legs warm and taking care that it is bathed quickly and not exposed too much while being dried. Wash the child all over once a day in a warm room with warm water and soap. Dry carefully with a soft towel, especially about the head and ears after the bath, then the baby will not take cold. Be careful to dry thoroughly the lower parts of the body, under the knees and under the arms. It is a good plan to put the child in bed between the blankets for half an hour after the morning bath. The mouth should also be carefully washed.

3. Sleep.—The child should sleep in a cot or basket alone. Even a banana box with a calico bag of chaff may be used. Many babies are overlaid every year from sleeping with their parents. Keep the window one or two inches open day and night except in stormy weather. Never use sleeping draughts, soothing syrups, teething powders, or any other medicine to make the child sleep.

4. Clothing.—*Always flannel* next the skin, not flannelette, which catches fire easily. Do not put the binder on too tight, with the notion of supporting the body. No part of the body, except the head and hands, should be bare. Underclothing and diapers should be of cotton cloth and as soft as possible. They should be changed as soon as wet, and should be immediately put into hot water and washed out.

Every time the child's bowels are moved, the parts should be well washed and all the creases about that part of its body should be cleaned out.

The baby is often made sore because it is not well washed, or because powder is put on it while it is still dirty, or because the diapers are not washed out, but are only dried, before being used again.

5. Fresh Air and Sunlight are nearly as important as food for a baby. It should be taken out every day in fine weather, but not after sunset. When out in a perambulator a baby should sometimes lie on its side, not always on its back—because, on its back, the sun is bad for its eyes, even though closed, and it cannot bring up the wind so easily.

6. Nursing Mothers should have plain, nutritious food. Above all things, mothers should avoid spirits, which are very hurtful to the child.

To Make Barley Water.

Barley water is best made by taking one teaspoonful of prepared barley (in powder), adding it to one pint of boiling water, and then boiling for five minutes; it must be made fresh each day at the very least, and if possible, every six hours and kept covered in a cool place.

To Make Lime Water.

Slake a piece of freshly-burned lime about the size of an orange by sprinkling water upon it; then put the crumbled lime into a gallon jar, and fill up with water, corking it tightly; shake it well, and in twenty-four hours it will be ready for use. Pour off as much as you require quite clear and fill up the jar with fresh water. The jar is to be kept well corked, for lime water soon spoils by exposure to air.

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MIDWIVES.

Not only is the education of the mother and of the community important, but we must get our facts before us. Where is the baby? And who is looking after it?

One of the questions on which we greatly require information is the number of cases in which mother and child in obstetrical cases are attended, not by a physician, but by a midwife. It would seem that information on this point might well be required, both when a birth is registered, and when the death of a child under one year old is registered. In Boston, on account of much interest being taken in the matter by the medical profession, and the extension of the dispensary facilities for obstetrical work, only about 10 per cent. of all mothers are attended by midwives at such times. But in New York, Buffalo, and Chicago, it is supposed that almost 60 per cent. of all births are attended by midwives, and it is known that where the foreign population is large, the proportion of births attended by midwives is not inconsiderable. In 33 of the 49 States and Territories of the United States there is no law providing for the licensing or regulation of midwives. In 13 of the States there are laws requiring midwives to pass an examination before being licensed to practice, but there is no attempt to educate these midwives or prepare them for their duties.

How Many Midwives in Ontario?

In the absence of reliable information no statement can be made. But it seems at least a matter of great importance in regard to Infant Mortality to know how many infants and their mothers are cared for by midwives only, and with what results, so far at least as Infant Mortality is concerned.

The Central Midwives' Board, established in England in 1902, to examine, license, and control midwives, has undoubtedly been of great service in Great Britain, but whether or not such a plan would suit Canadian conditions is at least doubtful. Our nurses, graduates of the leading Canadian hospitals, all or nearly all have an excellent training in obstetrics, and so far, at least, as that aspect of the matter is concerned, the position of affairs with us is different. It is the unknown and unlicensed midwife, practising among the non-English speaking people, not yet Canadianized, that may be the danger. And until we have accurate statistics on the subject, we may well be uneasy as to the real state of affairs.

Normal Infant Mortality.

It cannot be reasonably expected that all infants should escape all the dangers incident to birth and to the first year of life. Dr. Rich, of Detroit, places a "reasonable infant mortality for the State of Michigan" at 70 per 1,000 living infants, and quotes Holt, of New York, who is an authority on pedistries, as follows: "I judge that the well-to-do classes, with the best care, the mortality from all causes during infancy does not exceed 2 to 3 per cent. Another authority, Dr. J. F. J. Sykes, (St. Pancras, London), considers 50 per 1,000 births a more reasonable figure for large cities.

Reduction of Infant Mortality.

No fact in sanitary history can be better proved than the fact that Infant Mortality can be reduced by sanitary instruction. A good example of this is furnished by Chicago, where the first organized efforts were made in 1895, with what result the following table and chart will show.

CHILD MORTALITY—UNDER ONE YEAR OF AGE.

Comparing Two Twelve-Year Periods: Before and After the Department of Health Actively Prosecuted Measures for the Reduction of Infant Deaths, Especially During Hot Weather.

	Before—1883-1894.		After—1896-1907.		Percent Reduction of Death Rate "After."
	Deaths under One Year of Age.	Death Rate per 1000 of Total Population.	Deaths under One Year of Age.	Death Rate per 1000 of Total Population.	
January	4,784	5.08	5,736	3.17	37.6
February	4,710	5.49	5,783	3.51	36.1
March	5,849	6.21	6,013	3.32	46.5
April	5,799	6.36	5,489	3.13	50.8
May	4,759	5.05	4,826	2.66	47.3
June	5,064	5.56	4,340	2.48	55.4
July	11,222	11.92	7,788	4.30	63.9
August	8,243	8.75	8,152	4.50	48.6
September	5,803	6.37	6,008	3.43	46.2
October	4,014	4.26	4,662	2.57	39.7
November	3,445	3.78	4,007	2.29	39.4
December	4,242	4.51	4,913	2.71	39.9
Totals	67,932	6.12	67,717	3.18	48.1

How it Was Done.

The chief means adopted was the education of the mother in the care of the baby, especially in hot weather. After 1900 there was an enormous increase of the Slav population of Chicago. Among the Slavs infant mortality is great—greater in Europe than after they come to America. In 1908, the Department of Health, put 100 physicians in the field in July and August, and in the streets where the Infant Mortality was greatest, the physicians called at every home to help the mother in the care of the baby.

Don't Kill Your Baby.

The City Council, for this purpose, transferred $10,000 from the Contagious Diseases Division to the Special Division on Infant Mortality, under Dr. Caroline Hedger. This work has since been kept up in summer, and has been of great benefit. Last summer the two most modern devices were the cartoons of Mr. Wilder, the cartoonist of the *Record-Herald,* which were seen far beyond Chicago, especially the famous cartoon, "Don't Kill Your Baby," and the bill-posters' work in placing these cartoons at the very doors of the houses where the babies died.

"The Spot-Map."

A definite record, used in all this work, is a "Spot-Map" of Chicago, marked with a little round mark at the place where any baby died. The bill-posters and the doctors follow the route of the little white hearse, as shown on the "Spot-Map."

Care for the Mother.

Massachusetts is the first place in America to enact legislation prohibiting the employment of women in factories or other industries immediately before or after the birth of a child. The law was approved March 31, 1910, and went into force Jan. 1, 1912.

It enacts that "no woman shall knowingly be employed in laboring in a mercantile, manufacturing or mechanical establishment within two weeks before or four weeks after childbirth."

VITAL STATISTICS.

Great Britain.

The vital statistics of Great Britain, Ireland, France, Germany, and other civilized nations are reliable. They may not be perfect, but they are good enough to be reliable and to be used in calculations. Ours are not. One of the very first things to be done is to get our births registered. We really cannot do anything worth mentioning, to reduce infant mortality, until we do that. Where is the baby?

Notification of Births.

In Great Britain the law is known as the Notification of Births Act, 1907, and provides that births must be notified within 36 hours, under a penalty of 20 shillings. It requires to be adopted by the municipality before it comes into force in

that municipality, and the Government, through the Local Government Board, made it clear from the beginning that the Government would not sanction the putting the Act into force unless and until there was a reasonable prospect that some useful purpose would be served by the Act in that municipality. That is, the municipality had to provide skilled persons to visit the mothers and infants, to give them expert advice and counsel and give the babies a better chance to live and thrive. The Act also provides that the local authority shall give to any doctor or nurse, on request, for their use in this matter, prepaid and addressed post cards, containing the form of Notice of Birth. The Manchester Corporation lately applied to the Local Government Board for permission to pay a fee to a doctor for any such notification, but they did not get leave, the reason being, it is supposed, that the Government may pass a general (not adoptive) measure for the Early Registration of Births.

Where the Act has been adopted, it has worked well. In Eastbourne, for example, it has secured the notification of 91 per cent. of the total number of births, omission of the other 9 per cent. being due to ignorance of the Act.

The United States.

In the United States, in the opinion of Dr. Cressy L. Wilbur, of the United States Bureau of Vital Statistics at Washington, this matter is greatly neglected. It is supposed that some cities register only 20 per cent. of their births and others 90 per cent.

A Disappointment.

How nearly the latter figure is correct may be judged by the experience of Rochester. In 1910 the sanitary inspectors whenever they inspected a house for any cause asked if there were any children in it under two years of age. If so their names, parents' names, date of birth and name of attending physician were reported to the Registrar of the Vital Statistics to see whether the birth was recorded. School nurses and nurses in charge of milk stations gathered similar statistics, and at the end of 1910 it was found that the number of recorded births was twenty per cent. more than in 1909. Another plan was also adopted. Names were taken from the Baptismal Records in the churches and compared with the official records. It was found that twenty per cent. of these were previously unrecorded. This makes it quite certain that not nearly ninety per cent. of the births in Rochester are recorded.

Mr. Carmody, Attorney-General of the State of New York, has just given a decision to the effect that if any physician fails promptly to report births and deaths to the proper authorities his license to practise medicine may be taken away.

The State Board of Health for the State of New York regards this as a most important decision.

Organization.

Among the signs of progress in combating infant mortality, is to be observed that many Associations and Exhibitions have been organized. It is felt that individual effort, while indispensable, is not enough. The National League of Physical Education and Improvement, founded in 1905, helped to establish infant consultations and schools for mothers. It has now been decided to form of these organizations A Separate Branch or department of the National League for Physical Education and Improvement. Thirty-four of these societies have joined

together to make it. It is hoped that thus there will be obtained: (1) A uniform method of keeping records and statistics. (2) The formation of new societies on the best lines, as shown by the failure or success of older societies. (3) The publication of leaflets, charts, diagrams, pictures, and other educational material in the most acceptable and economical way. (4) The co-operation of all interested in infant welfare through the above means, and by general conferences and public meetings.

This work was promoted by a general meeting in London in July and another in December. The chairman, Ald. Broadbent, laid before the meeting the constitution which had been prepared, and a strong provisional executive was formed to make arrangements for the first annual meeting in 1912.

Another event in the world's infant mortality campaign of 1911 was a Health Exhibition at Bristol, England, of "Bristol's Best Babies." The Exhibition was a great success, especially as an educative force. It was held on March 1, 2, 3 and 4, 1911, under the auspices of the Bristol Maternity and Nursing Aid Society, and was organized by the Secretary, Dr. W. L. Christie. The catalogue was a readable document containing the names of the three hundred and fifty babies who were entered, and such paragraphs as the following:

A Heroine.

"The mother, who brings up a large family of healthy children on a pound ($4.86) a week and often less, is a heroine worthy of admiration and honour."

A Curse.

"We daily witness the pinched faces of babies whose expression is a silent curse louder than that of the strong man in his wrath. Let Statesmen see to it and alter it."

Ten Per Cent.

In connection with the good done by this Exhibition it is to be observed that the rate of infant mortality in Bristol is now down to 100 per 1,000 births.

The Third International Congress for the study of infant mortality was held at Berlin, September 10th to 15th, 1911, and like the previous congresses at Paris and Brussels, is likely to have far reaching results. Dr. Charles Hodgetts, medical adviser to the Canadian Commission of Conservation, Major Lorne Drum, M.D., and Prof. Adami, of McGill University, were among the Canadians who were present. There were upwards of 650 delegates. The Congress was divided into four sections: (1) Teaching and special instruction. (2) Practical work for the care and protection of infants. (3) Legislation, guardianship and other official measures for the protection of infants. (4) Statistics.

It will be observed that even the form of this programme shows how great an advance has been made since the last International Conference. Much is taken for granted, nothing is said as to the importance of infant mortality, and the discussions at the Conference are almost altogether on methods of educating doctors and nurses and the general public on the question of infant mortality. The meetings took place in the Reichstadt and the German Queen and Empress was present

at the opening. The British Government was officially represented by Dr. Newsholme and Ald Broadbent. A special meeting of British Delegates was held during the Congress, in which Canadian and American delegates took part, and it was determined to hold a British Imperial Conference on infant mortality, which should practically be an English-speaking Conference, in London in 1913, at or near the time of the International Medical Congress.

CHILD WELFARE EXHIBITIONS.

New York.

A new and somewhat wonderful manifestation of the trend of modern thought about childhood was the Child Welfare Exhibition, held in the 71st Regiment Armory, New York City, January 18th to February 12th, 1911. Even to read the catalogue of the remarkable exhibition was stimulating and to spend some time in it could not fail to interest and instruct anyone with any capacity for interest and instruction.

Many of the exhibits were directly upon infant mortality, and a paper upon the subject was presented by Dr. Ira S. Wile at one of the evening Conferences.

Chicago.

This New York exhibit was afterwards secured by the City of Chicago and by a liberal gift from Mrs. McCormick, enlarged still further. The educational influence of these exhibitions was very great.

St. Louis.

Later in the year another great Child Welfare Exhibit took place in St. Louis.

Montreal.

A Child Welfare Exhibition will be held in Montreal in the autumn of 1912. An event to which all those in Canada interested in child welfare are looking forward.

The plans for the exhibit, promoted as they are by both French and English, by the City, the University, the Associated Charities, the Settlements and all the clubs and organizations in Montreal generally, are such as to assure its success. It is expected that the subject of infant mortality will receive a large share of attention at this exhibition.

Montreal Child Welfare Exhibition.

The infant mortality of Montreal is phenomenal, greater than the infant mortality of any other city in America. Of the total deaths in Montreal 54.92 per cent. die before the age of 5 years. The exhibition, which will be held in the autumn of 1912. promises to do a great deal of good. It has been found in Bristol, in Newcastle, in New York, Chicago and St. Louis, wherever there has been an exhibition of an educational character the public have crowded it to the doors. Men, women and children have flocked into the building day after day,

and it has been the leading topic of conversation everywhere. This all helps. The cinematograph, the popular lecture, the efforts of the volunteer guides who are in charge, and many other features, catch the popular attention, and teach many useful lessons. The Sword of Herod, in the twentieth century, is ignorance. And not only the ignorance of the mother, but the ignorance of the community causes the loss of so many babies.

The Canadian Public Health Association.

A new health organization for the Dominion held its first meeting in Montreal in December, 1911, under the direct patronage of His Excellency the Governor-General, who opened it in person and visited all the sections. Two papers on infant mortality were presented at this meeting and it was frequently alluded to as one of the subjects which must be taken up by all interested in National Welfare.

American Association for the Study and Prevention of Infant Mortality.

This Association held its second annual meeting in Chicago, November 16th to 18th, 1911, and already in the short space of two years, has developed an efficient organization with increasing interest and confidence shown by the community. The attendance this year was larger and more representative than before and the papers were practical. Among the subjects upon which most time was spent were municipal work to prevent infant mortality, the problem of the midwives, and the preparation at school and home of the future mother and father for parental duties. The "Little Mothers' League," established and carried on in New York schools by the Child Hygiene Department of the Department of Health in New York, under Dr. S. Josephine Baker, and similar plans in Chicago and other cities are felt to be a real contribution to the solution of the problem of infant mortality.

The motto of the Society is in the words of Dr. Arthur Newsholme, medical adviser to the Local Government Board: "Infant mortality is the most sensitive index we possess of Social Welfare." This motto indicates the wide and practical interpretation which the Society gives to its duty.

Schools for Mothers.

It must always be remembered that conditions which killed 1,727 infants under one year old in a city like Toronto in 1909 did not stop there. Conditions that kill so many always disable others. Low vitality, enfeebled resisting power, a poor constitution, are the inheritance of children whom scandalous sanitary conditions have not killed, but have maimed. It is not to preserve the unfit that we plead when we would prevent infant mortality. It is the protection of the fit, that they may continue fit, not the preservation of the unfit that is the result of a sanitary campaign. Dr. Newsholme, in his classical researches (report published last year) shows that in countries where the infant mortality is low, the death rate at any other age is correspondingly low. That shows that the babies who were saved were fit to survive if they got anything like a fair chance. And one of the best ways to secure a fair chance for the baby is to teach the mother. A properly equipped school for mother includes:

(1) The infant consultation.
(2) The school for mothers.
(3) The restaurant for nursing mothers.

It requires the following staff:—

(1) A medical officer. (Fully qualified physician.)

(2) Lady superintendent. (Trained nurse.)

(3) Ladies committee. (Volunteer helpers, ladies who know something about homes and children and who are both interested and intelligent. The committee should be organized by appointing one lady as Chairman and President of the School for Mothers and others as Secretary and Treasurer.)

It is essential that the doctor, the nurse and two or three of the committee should be present at every consultation. The members of the committee can be of the greatest assistance in receiving the mothers and babies, conducting the classes, preparing the babies for being weighed, filling out the weight-charts, etc., etc., etc.

The object of an infant consultation is to keep the well baby well. If the baby is sick, it should be sent to the hospital at once or the Dispensary. For an infant consultation one large room may do. But if possible there should be:

(1) A doctor's room, where the doctor sees the baby, the nurse and the mother being present.

(2) A weighing room where the baby whose turn comes next is being undressed and weighed by its mother and one of the ladies.

(3) A waiting-room where the mothers and babies are received by one of the ladies and wait their turn.

(4) One or more rooms where practical instruction is given. This is the School for Mothers and the first object of this and every other part of the "School for Mothers" is to make sure that the baby is nursed by the mother. This is the most important thing in infant care and management. Then help is given in every detail of infant care and hygiene, in cookery, plain sewing, dressmaking, cutting out, mending and renovating. Paper patterns of baby garments are sold cheap. Demonstrations must be given with somebody's baby on how to bath and dress and care for an infant.

An infant consultation is much cheaper, and much more useful and satisfactory than a milk depot. But a milk depot has its place too, especially when the infant is nine months old or more.

The rooms must be kept decidedly warm, about 70 degrees being the proper heat for an infant. The place needs to be thoroughly ventilated, but not draughty. Special provision must be made for this, as if something be not done to keep the air reasonably good, the ladies committee may become extinct.

An extra room is almost necessary, when a sick baby comes, it must be seen quickly by the doctor, who should direct it to some hospital or dispensary. But this takes a few moments and afterwards the room should be well-aired before others are admitted to it.

The furniture should be simple, but not ugly or depressing. The walls should be of a pleasing tint. Everything should be shining with cleanliness and should be pretty. Flowers, good pictures, maxims and mottos and wise sayings, simple rules and charts and apt quotations all help. A few toys are a great comfort. So, too, several cradles made out of banana crates, to hold the babies, etc., etc. Above all, the character and efficiency of the doctor, the nurse, and the members of the committee will be the greatest stronghold and safeguard of the school and will secure its success. They all need knowledge of the world, refinement, no small amount of patience and tact and real sympathy and insight, as well as special knowledge of some practical kind relating to the child and the home.

If the mother is to have dinner (and this is the way to feed the baby too) there must be a good kitchen under expert management. The assistants may be all learners, but the head must be an expert. No one else could do as Madame Coullet does at her restaurants for mothers in Paris, give for 3½d., including all working expenses, to every nursing mother who comes in with her baby and nurses that baby while there, a good meal of fish or fresh meat boiled or roasted, vegetables, cheese, or a stick of chocolate, with an unlimited supply of bread. The community which lets a baby be torn by "work" from the mother's breast, and lets the mother with her baby at her breast go hungry or starving is surely not only inhuman, but so stupid as to be blind to its own interests.

It must be remembered, however, that the Mother's Restaurant is only for emergencies. What is to become of the other children if the mother is away from home at dinner-time. If the meals are not taken at home it is a serious matter for the home. The destitute mother, with but one baby—the unmarried mother, the widow, there are these and others for whom this may be necessary, but while some way must be found to serve the hungry mother, it should be a way which will not introduce a still greater evil.

Records.

Home visiting by the ladies of the committee and also by the nurses, is really essential and will help with the records, and, indeed, with every part of the work.

"Much useful and good work can be done on the statistical side if the cards and charts of each baby are carefully kept. As full particulars as possible should be obtained about each case, but there should be no elaborate tabulation in the presence of the mother, information can only be obtained by tact, and it should be regarded as strictly private. The record, of which the duplicate card is given to the mother, should only contain the simplest particulars, *e.g.*, name, address, and occupation of parents, name and date of birth of child (weight at birth if known), how fed, diet recommended and followed, and the record of the periodical weighings. The following particulars are, however, very useful for statistical and eugenic purposes: Occupation, age and earnings of parents and their circumstances (*i.e.*, kind and state of dwelling-house and sanitation), habits (temperate, industrious, or otherwise), religion or race, health of parents, any family diseases, number of children in family, and of conceptions of mother, number of still-born and of miscarriages (if any), number of children dead, and cause of death, whether the mother worked during pregnancy, and how soon work was resumed afterwards. State of health, weight, and height of child at birth, any defects, any apparent tendencies to disease, progress of weight, height, and health, teeth cut, intelligence, habits; how fed from birth (if artificially, give reason).

"Finally, the principles of the work must always be kept in mind—the lessening of unnecessary suffering and death among mothers and children, by the prevention and cure of disease, by the teaching of the ignorant, and by improvement in feeding, clothing, cooking, housing, sanitation, and in personal hygiene, and above all, by the encouragement of breast-feeding—the relief of poverty, but at the same time the encouragement of thrift and home-making. Not an easy work—often in individual cases impossible and discouraging—but surely abundantly worth doing, and in the long run bound to bear fruit in the increased healthiness and well-being of the race."—*H. M. B. in The Crusade.*

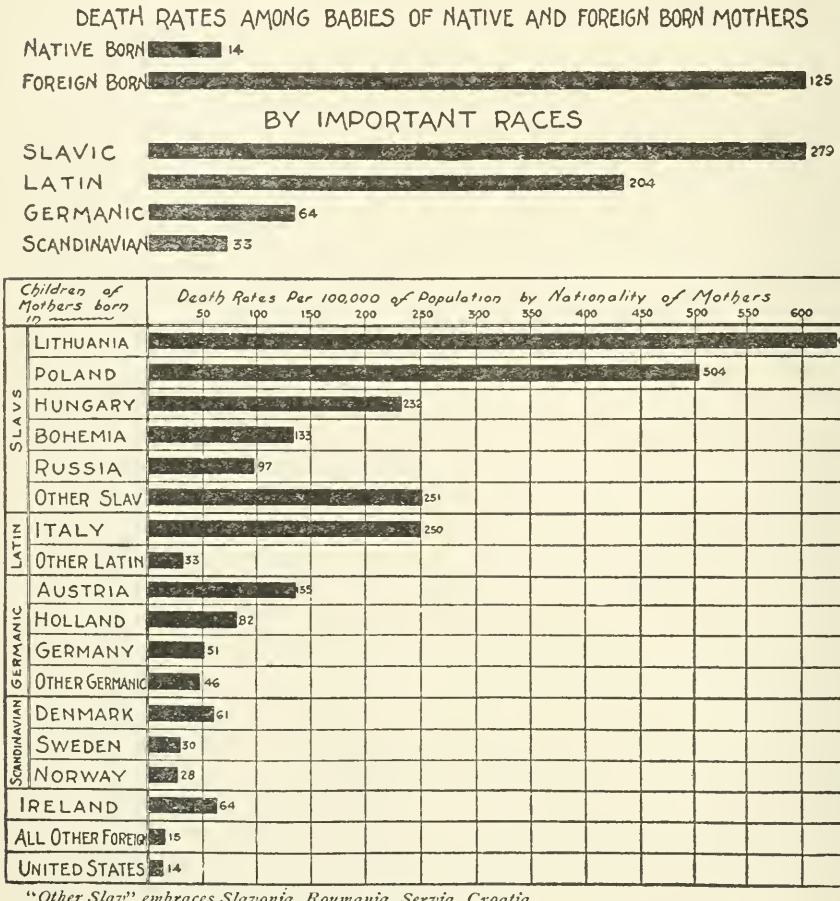
In regard to records, there are a few points of great importance. As already indicated, we must know particularly all about how the child is fed.

Probably next in order comes the exact cause of all the deaths under one year of age. Next the age of the mother. This has a marked effect on the child's chance of survival. If the mother is only 15 or 16 years of age her condition and the condition of the child are as pitiful as they are disgraceful to the community.

Another matter of the utmost importance is the nationality of the parents, as illustrated in the Chicago results. How does this compare with Ontario, or the Cities of Ontario? We do not know.

INFANT DEATHS FROM THE DIARRHEAL DISEASES DURING THE HOT WEATHER IN CHICAGO AND THEIR RELATION TO NATIONALITY OF MOTHERS

Death rates per 100,000 by Birthplaces of Mothers.



"Other Slav" embraces Slavonia, Roumania, Servia, Croatia.
"Other Latin" embraces France, Greece, Spain, Portugal.
"Other Germanic" embraces Belgium, Switzerland, Luxembourg.

Calcutta.

Chicago, is not the only city that has made this discovery. In Calcutta, where the population is 890,493, the infantile mortality rate was 273 per 1,000 births, and in some parts even this high rate was increased, for in six separate wards it varied from 350 per 1,000 to 447 per 1,000. There was a remarkable difference in the infantile mortality rate among the different nationalities. Among the Hindus it was 252 per 1,000, among Mohammedans 343 per 1,000, among non-Asiatics 141 per 1,000, among mixed races 260 per 1,000, and among other classes 238 per 1,000. The high rate among the Mohammedans, it is thought, may possibly be due to the defective registration of births among these people.

Know Where the Babies Die.

It would probably also be of great service to Know where the babies die. If every week we had a record in our newspapers of the number of deaths under one year old, arranged according to wards, with the nationality, the cause of death and a few other interesting particulars, it would affect public opinion and hasten the education of the public on this important matter.

The following card used in Chicago for recording visits to homes of the nurses under the direction of Dr. Caroline Hedger, is a good form of record:

Department of Health, Chicago.

Infant Welfare Service.

(Card 1)

Ward ..... Street ..... No. .....

House ..... Ft. ..... Rr. ..... Flat .....

Ft. ..... Mid. .....Rr. ..... Floor 1-2-3-B

NAME .....

Place Mother's Birth ..... Occupation.....

Place Father's Birth ..... Occupation.....

Children: Alive ..... Ages ..... Youngest Child Sex .....

General Condition ..... Dead .....

Ages at Death ..... Second Child Sex .....

General Condition ..... Abortions .....

Feeding Youngest: Breast ..... Breast and ..... Comm. .....

Pat. Fd. ..... Cow's Milk only ..... Cow's

and ..... Cond. Milk ..... Water .....

(Card 1.)—*Continued.*

Feeding Next Youngest:

If the Mother is Nursing what does she take to make milk?

Feeding: Regular ..... Too often .....Night

Feedings .....How many? .....

Milk: Boiled ..... Pasteurized ..... Covered .....

Kept on Ice ..... In Water .....

Bathing: Sponge ..... Tub ..... How often? .....

Clothing: Too much ..... Too little .....

Stool: Color ..... Consistency ..... Blood .....

Mucous ..... No. in 24 hours .....

Sickness in House: Cases Diarrhea ..... Tuberculosis .....

Chronic Cough ..... Contagious ..... Skin .....

LIVING ROOMS	Perf.	Allow
Cleanliness : Deduct when Unclean Floors 4, Walls. 3, Ceilings, 3. Ledges 3. Windows 2.	15	
Ventilation : Adjustable Windows 6, No Odor, 4.	10	
Lighting : Deduct 2 Points for every 3 per cent. less than 15 per cent. of Floor space.	10	
Presence of Flies :	15	
Crowding : Rooms, No..... Men .....Women..... Children ..... Boarders	10	
	60	

SURROUNDINGS	Perf.	Allow
Accumulations : Within 50 feet : Garbage—Rubbish.	15	
Yard and Areas : Space available.	15	
Plumbing on Premises : Deduct when leaking 4, Clogged 4, Odor 2.	10	
	40	
Plus Living Rooms	60	
Final Score.....	100	

Causes.

The realization of the importance of infant mortality has led during 1911 to a still more minute and searching scrutiny of the first causes of infant mortality.

Why do we lose all these lives? Certain aspects of the question have received special attention. Thus, the common house fly (Musca Domestica) used to be regarded as harmlessness itself. We now regard it as one of the most deadly enemies of man. And it has been readily recognized that the house fly helps to contaminate milk and so cause infant diarrhœa.

Researches which are now pursued with so much energy constantly result in new facts being brought forward. The influence of ALCOHOL has, of course, received marked attention. Professor Bunge's work is valuable in regard to the influence on the daughter of alcoholism in the father so far as the daughter's ability to nurse her child is concerned. Professor Bunge gives this table:

The Father Consumes Alcohol.	Daughter able to Nurse.
Not habitually	91.5 per cent.
Habitually, but moderately	88 per cent.
Habitually, immoderately	31.4 per cent.
Inebriate	10 per cent.

The Medical Officer of the Local Government Board, Dr. Arthur Newsholme, has directed two investigations during the last year which bear on infant mortality. One was an examination by doctors in London, Manchester, Birmingham and Shrewsbury, to ascertain the ORGANISMS IN EPIDEMIC DIARRHOEA. A great many different organisms were found, but none could be identified as the cause of the disease.

The other was in regard to THE HOUSE FLY. Dr. Newsholme points out that while not the sole cause of epidemic diarrhœa, by carrying the bacillus on their feet and elsewhere, flies are a good index of the probable contamination of milk and other foods in cities where scavenging is neglected and filthy privies are permitted. Flies, like infant mortality itself are an index that cannot lie as to sanitary conditions.

A third investigation on CONDENSED MILK was ordered by the Local Government Board. A rather fatal food for infants is condensed milk. The local Government Board has had a special report prepared on it by Dr. F. J. H. Coutts. He finds:

(1) That none of the condensed milk was free from germs. One at least of these germs found is suspected to cause infant diarrhœa.

(2) That the name of condensed milks is Legion, for they are many. Dr. Coutts got 100 different brands of machine-skimmed milk and 40 brands of full cream condensed milk. When something goes wrong with the process and one "lot" of condensed milk is too thick or too thin, then the wary manufacturer gives it a new and beautiful name and picture on the tin and sends it forth thus to fight against the baby, so the number increases yearly.

(3) The merchant makes more profit on machine-skimmed condensed milk than on full cream condensed milk. The figures are about 20 per cent. profit on the one and about 10 per cent. on the other.

Death and disease are in league with him and make a bigger profit still. The lack of fat leads to malnutrition, lowered vitality, rickets, scurvy, more liability to epidemic diarrhœa, and more predisposition to bronchitis, tonsilitis, pneumonia and adenoids, with all their evil consequences. A considerable proportion of infants fed on machine skimmed milk die in the first year, and those who survive are apt to be stunted, ill-developed and inefficient.

(4) Ignorance and poverty are the causes which lead to feeding babies on condensed milk. The mother pays 5½ pence for condensed milk, when she can get an equal amount of fresh full cream cow's milk for 5 pence. But she does not know it.

This research attracted much attention, and the general opinion about the matter is thus voiced by the *Lancet*:

"The State should step in wherever possible to prevent the waste of infant life which is due to ignorance and poverty, and, in the case of condensed milk, to render more difficult the commercial game of making things appear to be what they are not."

How much condensed milk is used in Ontario?

Immaturity.

More emphasis has recently been laid on infant deaths resulting from immaturity. It is remarked by Dr. Walford, M.O.H. for Cardiff, and by other observers, that State and Municipal Hygiene can do more for the infant after it reaches three months or so than before that time. Prematurity, weakness at birth, etc., can only be prevented by the care of the expectant mother and by her education and instruction in her duties and her responsibilities to her child.

A great controversy has been held over the question of the Employment of Married Women outside their homes, on which opinions are very varied.

It may be recalled that an important inquiry on this subject was made under Dr. John Robertson, M.O.H. of Birmingham, by Dr. Jessie Duncan, who made detailed and thorough investigation in St. George's and St. Stephen's wards in Birmingham. The two most important facts brought out by this enquiry were as Dr. Duncan says: "The mortality among the infants born in 1908 of all mothers employed, either before or after child birth, was at the rate of 190 per 1,000 births, while among those not industrially employed it was 207 per 1,000 births, and that the weight of babies at the end of 12 months did not vary greatly according to whether or not the mother was industrially employed, but did vary greatly according to the wages of the father."

"These mothers live more exacting and self-denying lives than probably any other group in the community. I have personal knowledge, and have the testimony of many reliable workers, that what food comes into the house is given to the children or the husband, while they themselves go on from day to day in a state of semi-starvation.

"The life of a mother among the poorer classes is always a strenuous one if the family is large, but when hunger is added, and particularly when such a woman is an expectant or nursing mother, the condition is a particularly distressing one."

The following are the figures referred to:

		Average Weight of Babies.
260	Industrially employed mothers after confinement.....	17.3 lbs.
157	Industrially employed mothers before but not after confinement.....	18.0 lbs.
399	Mothers not industrially employed	18.0 lbs.

	No. of Babies weighed.	Average Weight of Babies at 12 months.
All Infants breast-fed for 6 months.....	466	18.0 lbs.
All Infants partially breast-fed for 6 months.....	177	17.2 lbs.
All Infants bottle-fed for 6 months.....	173	17.2 lbs.

In the course of these weighings it was found that the question of the degree of poverty had a very considerable influence on the infant, whether breast-fed or not. This is shown in the following figures:

Income of Family, excluding Mothers, at Time of Birth.	No. of Babies weighed.	Average Weight of Baby at 12 months.
Father out of work	107	17.6 lbs.
Total Income under 10s. per week	52	16.8 lbs.
" 10s.—20s. "	303	17.5 lbs.
" 20s.—30s. "	300	18.3 lbs.
" over 30s. "	39	18.8 lbs.
Illegitimate Children, no income at first visit	15	18.0 lbs.

Dr. Robertson sums up his general conclusions as follows:

"I do not for a moment maintain that such industrial employment is free from all harmful influence. The mere fact that it prevents breast-feeding in the majority of cases is in my opinion a reason for some State interference. Here, however, it appears to be a question in this Birmingham area as to whether the additional poverty which would be occasioned by preventing mothers from working for, say, six months after a birth, would not be the greater of two evils."

The same investigation was carried on in 1910, but more thoroughly, as the organization to help the mother was better. Dr. Duncan says:

"The general conclusions to be drawn from another year's study of this question are much the same as those arrived at in 1908. It seems pretty certain that industrial employment has a bad effect on the infantile mortality, principally because it interferes with breast feeding. For this reason employment in a factory is more harmful than employment at home. But the influence of industrial employment is quite small when compared with the influence of acute poverty. It would seem, therefore, that in so far as the mother's employment reduces the acuteness of the poverty, it may tend to improve the infant mortality. At any rate, it is doubtful whether any further interference with the employment of married women would be at all beneficial as long as the acute poverty remains.

"The influence of poverty (even only dividing the wages into below and above £1 per week) on the infantile mortality rate is far greater than that of industrial employment. Employment of the mother apparently had the effect of causing a difference of 10 per 1,000 in the infant mortality, whereas the father's earnings being under or over £1 per week resulted in a difference of 65 per 1,000. Poverty appears to act upon the child both before and after its birth. The children may seem to be healthy at birth, but they have a very insecure hold upon life, and are unable to live in the poverty-stricken homes into which they are born.

Poverty.

Poverty, of course, is not a simple, but a complex condition. It probably means poor health, inefficiency, lack of energy, less than average intelligence or force in some way, not enough imagination to see the importance of details, etc., etc.

This report was made in February, 1911, and in March, of the same year, Dr. Robertson published a further statement. He thinks that infantile diarrhœa should be subject to Compulsory Notification. It was ascertained in 1911 that 73 per cent. of the cases of infant diarrhœa occurred in houses with four rooms or less, and only 27 per cent. in houses of more than four rooms.

The Mother Saves the Baby.

Breast feeding has once more been shown to be the great safeguard against infant diarrhœa. An infant nursed by the mother is almost or quite safe from infant diarrhœa. An infant fed artificially is 30 times more likely to die of infant diarrhœa than one nursed by the mother.

Housing.

No one condition has a more direct influence on infant mortality than housing. Poverty and misery and unfitness are of course at the bottom of both infant mortality and bad housing. To prevent infant mortality we must find some way of preventing destitution. Dr. Newman gives the figures for Finsbury in 1905, infant mortality.

Number of Deaths per 1,000 *Births.*

One-room tenement	219
Two-room tenement	157
Three-room tenement	141
Four-room tenement and upwards	99

In Hamilton, in Toronto, and elsewhere in Ontario during 1911, some thought has been taken about the housing problem. In Hamilton the Annual Report of the Health Officer states that a number of houses unfit for habitation, photographs of which are given, were closed by the order of the Local Board of Health.

Early in 1911 an investigation of housing conditions in certain districts of Toronto took place. It was ordered by the Local Board of Health at the request of the Medical Health Officer, Dr. Charles Hastings, and was provided for by a special grant of $800 from the Board of Control. Dr. Hastings appointed four women as housing inspectors to do this work, all of whom had special qualifications for the work and special knowledge of these districts. A physician received and revised their reports daily, inspected a number of doubtful or very bad houses and directed the investigation, as well as preparing and presenting the results which were published by Dr. Hastings in a report dated July 5th, 1911.

No better commentary on the infant mortality of Toronto, which was 1,727 in 1909, could be found than is furnished by this report. The following photographs and descriptions, with the accompanying statistics, are taken from it by kind permission of Dr. Hastings.

This picture was taken under the shadow of the City Hall. To the left is a tenement house occupied by six "families." There are six dark sleeping rooms in it. To the right is a "sanitary convenience," intended to be used by all the inhabitants of the row, except those in the third house. At the door of the third house may be seen the outside entrance to a closet in the cellar, used not only by the people of that house, but by the workers in the "factory" which occupies the top flat of all these houses.

In the foreground is a muddy, dirty, unpaved yard and lane. The tap with the pail under it is the sole water supply for all the houses, and the tenement house, and the workers in the factory—40 persons in all. The tap is sometimes frozen in winter. It is not protected at all from frost.

These are rear houses, hidden away in behind the street. They cannot be seen from the street. The rent for the houses is high. On the day the photograph was taken the owner had for some unknown reason cut off the use of the sole "sanitary convenience" for 30 people, in the manner shown by nailing it up.

The bare branches of the tree shown to the extreme right mark the place where stands an outside privy of another type, the condemned and out-of-date privy-pit. That closet belongs to a house on the front street rented for $10.00 a month. One of the best known real estate firms in Toronto collects the rent. The house is unfit for habitation. The outside privy has been for a long time over-flowing. Its disgraceful state may be seen from the open street across a vacant lot. Into that vacant lot the husband of the poor woman who still struggles to keep that house decent casts under cover of night, the "night soil." The same thing is done from seven other dwellings which we have reports of.

In other words, what we have read of with disgust as having happened in the cities of Europe in the middle ages, happens in Toronto now before our very eyes. But we do not look that way. We pass by on the other side.

Problems of the Great City.

Thus the problems of the great city have come upon us unawares, and are presented before us in this one scene:

(1) High rents.
(2) Rear houses.
(3) Dark rooms.
(4) Over-crowding.
(5) Tenement houses.
(6) Houses unfit for habitation.
(7) Inadequate water supply.
(8) Unpaved filthy yards and lanes.
(9) "Sanitary conveniences" (so-called) which, by their condition, their position or their lack are: A nuisance, a menace to public health, a danger to public morals, an offence against public decency.
(10) Infant mortality, tuberculosis, and other evils brought upon as a consequence of these conditions.

"Infant mortality is highest where, under urban conditions of life, filthy privies are permitted, where scavenging is neglected, and where the streets and yards are to a large extent not 'made up' or paved."—*Newsholme.*

In not a few instances a whole row of houses has been built on a back lane of a width of eight feet or even less.

The south end of the row of houses to the left of the next photograph is a striking instance of this. A tall man with arms outstretched, could probably touch the high wall on the right with one hand, and the houses on the left with the other. The road is a study in mud.

Behind the row of houses on the right is another still narrower lane. The street in front is only a lane, with mud six inches deep. But the narrower lane behind is deeper in worse filth, for the contents of the row of outside closets ooze out into that lane.

The Danger of Dust.

In summer the dust from unpaved streets gets into the house and into the food, particularly into the milk, and this probably causes a great deal of sickness and death among little children.

The same may be said of the uncared-for, dusty, dirty, muddy, sometimes filthy, often unsanitary yard and back lane.

A Plea for Playgrounds.

Grass is scarce in the City Hall district. These children seldom set their poor little feet in the green pastures. The street is dusty and dangerous, the yard is muddy and dirty.

The Slough of Despond.

Again the picture gives no idea of the depth of mud. It was a Slough of Despond. There was no drain at all.

Overcrowding.

The rear view shown above illustrates another example of over-crowding. On this lot, 90 feet by 44 feet, there are built four stores and five dwellings, three closets, two sheds and an "abattoir" on a small scale.

To the extreme left of the picture is a shed where the business of killing fowls is carried on. There are two barrels encrusted with gore to a thickness of about three-quarters of an inch. The whole shed is filthy.

Next is the door, propped open, of a closet out of order. The water runs down from it, and the little stream drains into the kitchen door of the rear dwelling opposite.

The window of the other rear dwelling is shown at the end. The whole yard is dirty and needs a good cleaning up. But the worst feature of all is the terrible condition of the outside closet draining into the kitchen. As the poor woman said, "Have to send my children away." "Catch easy sickness."

The next photograph shows another outside closet in a disgraceful state. But not so disgraceful as the one in the shed just opposite, which is not shown. It baffles description. So does the shed.

Toronto is now attempting to abolish these bad housing conditions and to establish a garden suburb in the near future.

In the Shadow of the City Hall.

Houses on a Back Lane.

The Slough of Despond.

Number of houses inspected	4,696
" " families living in one-room dwellings	198
" " families living in two-room dwellings	411
" " families living in three-room dwellings	646
" " families living in four-room dwellings	4,080
" " families living in basement cellars	79
" " families living in rear houses	246
Houses unfit for habitation	390
Toilets, privies or outside closets unfit for use	716
Dark rooms	48
Over-crowded rooms	109
Families with no water in house	559
Families with no drain in house	662
Families with no bath in house	3,095
Families with no toilet in house	2,207

The most dangerous of these figures to Toronto, Ontario, and Canada are those which mean the absence of the decencies of human life. Well did Sidney Webb speak of the "Soul destroying conditions of the one-roomed dwelling." Has the mother with her baby at her breast any chance in the one-room dwelling, the dark room, the cellar, the house unfit for habitation, the house that does not hold one water tap, one sink, one sanitary convenience? No. And therefore we buried our four babies a day in 1909.

The Children of the Province.

Why Did They Die?

The Province of Ontario, whose children thus die in thousands, (for no system of Birth Registration, however successful, can alter the fact that 6,932 children died within our borders in 1909), should know why they died, and a good deal more about the whole subject than it does at present? Realizing, in fact, as well as in name, that these are the Children of the Province of Ontario, we should do something to save them alive, and this we cannot do till we know more about them. Probably infant diarrhœa should be made a notifiable disease.

It Can Be Done.

It lies in our power to make a great improvement in our present high infant mortality rate, which is unworthy of Canada, and strikes, in more ways than one, at the root of the real prosperity of the nation. Every country that has tried to do it has succeeded in reducing infant mortality. It was stated this year, by Dr. S. G. H. Moore, the Health Officer of Huddersfield, who visited Villers le Duc, that the Mayor, who was a doctor, had made certain regulations *re* the care of infants, and had had them carried out. The result was that of all the infants born in that commune during ten years, *not one died.*

What community in Canada will make a record like that for one year..

"Catch Easy" Sickness.

It is Worth Doing.

According to figures published by the United States Conservation Commission, the monetary value of a new-born baby is $90. According to this the Province of Ontario lost $600,000 worth of babies in 1909, and the City of Toronto $155,430 worth in the same year.

As Others See Us.

Mr. and Mrs. Sidney Webb visited Canada in the summer of 1911. Whatever opinion we may hold as to their views set forth in the celebrated "Minority Report" of the Poor-Law Commission there can be little doubt that in aiming at the "Prevention of Destitution" they are getting at the root of the matter, and that as Social Experts they have few equals.

What did they see here, and what did they say?

"We have journeyed thousands of miles; rested in magnificent cities, counting their inhabitants by hundreds of thousands; passed over miles of cultivated fields and boundless prairies; gone through vast stretches of forest and seen the output of prolific mines; and—in spite of whole districts of barren waste of rock and sage-brush, and of some overcrowded quarters of the cities which are not far off being slums—we cannot say that we have seen even the smallest class of destitute persons. There are individuals in temporary distress. Here and there, in the great cities, you may find a roomful of persons—here and there in the "shack" that the "homesteader" first erects on the prairie you may find families—who are, in essentials, below the "poverty line." But the optimistic Canadians are right (and all Canada is just now more optimistic than the typical Western American) in feeling that, of destitution as a disease of society they have practically none."

A brief statement of the resources and prosperity of Canada follows:—

"What is just now happening, in short, is the individual appropriation and reduction to effective use of the natural resources of a vast continent, which was, until lately, not practically opened up.

This has been rendered possible by the enormous influx into Canada during the past decade of both capital and labor. The spirited advertisement policy and large-minded inducements of the Dominion Government are bringing over each year an addition of something like five or six per cent. to the total population; and a practically unlimited supply of capital is being placed by English, Scottish, and French investors at the disposal of the Great Canadian banks and "captains of industry." The result of all this is a perfectly marvellous "expansion"—everywhere new railroads are being built, new houses erected, new mines opened, new factories started, new industrial enterprises set going—parallel with the new acres being brought under cultivation. This means a practically insatiable demand for manual labor (and, indeed, for most other kinds, in due proportion and at the right points); and accordingly a high level of wages; and, just at present, no unemployment, even in winter. Thus, what is in progress in Canada during the opening years of the twentieth century is not the normal growth of a settled community, but the rapid—almost the sudden—economic appropriation of a new land. To the economist, the discovery of Canada will date, not from Jacques Cartier, or its acquisition from Wolfe, but from the opening of the "C. P. R." (Canadian Pacific Railway) in 1886. The present inhabitants of Canada are a race of conquerors.

It Baffles Description.

How long will this last? It may easily be predicted that as soon as the unappropriated land practically accessible to the urban laborer becomes exhausted, the usual wage-earning "proletariat" will emerge. This point may be reached long before the vast geographical areas on the map are all divided into farms; just as it was reached in the United States a generation ago. Land which the laborer cannot get to and cannot economically work is as good as no land at all.

Moreover, what is usually forgotten, the class of destitute persons in England is made up, to the extent of 95 per cent. of the sick, the feeble-minded, the lunatic, the aged, the crippled, and the widows and orphans. The chief reason why Canada has so few destitute persons is that nine-tenths of such persons have been left behind in Europe! No lunatic, sick, defective, or crippled person is allowed to land: the aged and the orphans likely to become chargeable are very grudgingly admitted: even the adult healthy immigrant is only admitted if he brings with him several pounds in cash; and the Asiatic races are excluded. The result is that Canada is, to an enormous extent, still a nation of healthy adults, self-selected for energy, enterprise, ambition, and endurance. We in Europe are maintaining—in our pauper class—a large proportion of the defectives and dependents belonging to these millions of conquering emigrants, who are themselves growing rich on their conquest.

What of the future? With this magnificent heritage of natural resources, and this carefully selected population, it will be a sin and a shame if the Canadian Dominion presently reproduces in Montreal and Toronto, Winnipeg and Vancouver, the "sweating," misery, and destitution of the Old World. It has all our experience to learn from. It has at its disposal all the achievements of economic and political science, and the successful experiments of Great Britain, Australia and New Zealand, and the Continent of Europe. It has a form of government and a constitutional framework which are the envy of the inhabitants of the adjacent States of America: and which are free from most of the vices that beset a new country. Capitalism, moreover, is, so to speak, on its good behavior, and is quite sincerely seeking its gain in efficient direction of the national enterprises.

The disquieting feature is the complete lack of any thinking about the problem, and the light-headed optimism of this nation of successful speculators in land values. The causes which produce destitution are already at work: and the beginnings of destitution, as a disease of society, are not far off. To begin with the babies. In Montreal and Toronto, as well as in Quebec, and generally throughout the cities of the Dominion, the infantile mortality is terrific—apparently equaling that of the worst slums of Preston and Liverpool. This implies, as we now know, the widespread deterioration of the infants who do not die, and the production of all sorts of degeneracy. It is no less a disgrace to the Canadian people and Government that the sickness rate and the death rate, more especially those of the obviously preventable zymotic diseases, should be, in practically all the Canadian cities, far above that of the average English town.

To put it shortly, the Canadian city is still essentially uncivilized—it is neither properly paved nor drained, nor supplied with water fit to drink, nor equipped with any adequate public health organization. This is particularly true of the cities of Quebec and Ontario, proud as they are of their civilization. The newer cities of the West have gone in much more for collectivist organization of the means of healthy city life. But after ages will wonder at the stupidity of Government and a people which takes so much trouble to bring in immigrants from every corner of Europe—even the Ruthenians and the Armenians—and, for sheer lack of public thought, lets its own Canadian babies die in quite unnecessary holocausts,

and for sheer lack of civic organization, allows even the laborers it has brought over to be decimated by enteric fever due to a contaminated water supply.

All this infantile mortality and adult sickness means that the production of a destitute class is beginning. The elaborate "eugenic" precautions taken at the ports are being nullified by the production of cripples and degenerates in the interior. Presently, too, the problem of the widow and orphan—as yet almost unfelt—will begin to demand a wise collective provision. Finally, the absence of any adequate provision for training the Canadian youth, so that he may grow up more than a manual laborer, will lead presently to an "unemployed" problem (which began to be seen in Toronto a few winters ago). All this demands thought—thought which does not seem yet to be given.

SUMMARY AND SUGGESTIONS.

Summary.

(1) Ontario has a high infant mortality.

(2) A high infant mortality is a sign of the need of education and of raising our standard of civilization, especially in sanitary matters.

Suggestions.

(3) This education should be made effective by the government, the municipality, the school, and the medical profession.

(4) The baby is a citizen. His or her arrival should be notified to the Division Registrar within 24 hours, by the doctor, father, nurse, or other responsible person. Immediately thereupon the Medical Health Officer should be notified and give an official card of birth registration, to be kept for the baby by the mother, to whom the card is to be given by the visiting nurse, within a few hours of the notificaton, in order that she may, if necessary, give expert advice and assistance in regard to the feeding and to the care of the baby.

(5) Every effort should be made to popularize the Birth Registration Bureau, by placing it, or a notice directing to it, in such a manner that every one who enters or passes the City Hall may see it. The convenience of the citizens to be consulted in every way. In cities over 100,000. this Birth Registration Bureau to be kept open at all times (perhaps with colored lights to indicate it), and every facility given to assist citizens to make registrations.

(6) The first person to notify any birth within 24 hours, to receive a fee of 25 cents from the municipality.

(7) Every certificate of death for any child under one year of age shall state the exact method employed to feed such child.

(8) Medical Health Officers to make weekly returns of births and infant deaths to the Secretary of the Provincial Board of Health, and to state in what ward, township, etc., such occurred.

(9) The Provincial Government to make a special grant of one-third of the salary paid to any physician or nurse exclusively employed in Infant Welfare work in any municipality.

(10) The Provincial Government to make a special grant under the terms of the Charity Aid Act of 14 cents per day for any infant nursed by the mother in any Provincial Institution, Hospital, Infants' Home, etc., and of 7 cents per day for any infant not nursed by the mother, in such Institution.

(11) The establishment of a Bureau of Infant Care and Management or Infant Welfare, under the Secretary of the Provincial Board of Health.

(12) The Registrar General to supply doctors with stamped and addressed post cards upon which to write the notification of births.

I have the honor to be,

Sir,

Your obedient servant,

HELEN MACMURCHY.

December 31st, 1911.

PROVINCE OF ONTARIO.

1908—Births, 55,388; Deaths under one year, 6,895; Infant mortality rate, 125 per 1,000.
1909— " 52,629; " " " " 6,932; " " " 131.7 "

CITIES.	Births.		Deaths under one year old.		Ratio of such deaths per 1,000 births.	
	1908.	1909.	1908.	1909.	1908.	1909.
Belleville	248	231	49	29	197.6	125.5
Brantford	597	523	95	91	159.1	174.0
Chatham	229	192	41	44	179.0	229.2
Fort William	442	413	110	94	248.8	227.6
Guelph	307	322	57	46	185.7	142.9
Hamilton	1,822	1,706	349	296	191.5	173.5
Kingston	395	451	71	86	179.7	190.7
London	1,024	965	205	175	200.2	181.3
Niagara Falls	214	200	47	36	219.6	180.0
Ottawa	2,035	1,920	521	545	256.0	283.9
Peterborough	459	390	78	72	169.9	184.6
Port Arthur	392	346	95	96	242.3	277.5
St. Catharines	294	242	50	47	170.1	194.2
Stratford	301	331	41	48	136.2	145.0
St. Thomas	334	295	62	45	185.6	152.5
Toronto	7,938	7,848	1,535	1,727	193.4	220.0
West Toronto	433	....	83	....	191.7	.....
Windsor	395	335	67	54	169.6	161.2
Woodstock	204	177	20	13	98.0	73.4

INTERIM REPORT

ON

Laws Relating to the Liability of Employers

To Make Compensation to their Employees for Injuries received in the course of their employment which are in force in other countries.

By

THE HON. SIR WILLIAM RALPH MEREDITH, C.J.,C.P.,

COMMISSIONER.

With the Evidence taken and the Brief of Mr. Wegenast, submitted on behalf of the Canadian Manufacturers' Association.

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Contents.

Page

INTERIM REPORT 5

Schedule I.—Brief of Trades and Labour Congress of Canada 8

Schedule II.—Laws of European Countries and the Provinces of Canada . 12

Schedule III.—Acts Passed by State Legislatures in the United States of America 46

Brief of Canadian Manufacturers' Association 54

Minutes of Evidence 134

Alphabetical List of Witnesses 468

Short Synopsis of Mr. J. H. Boyd's Brief 471

Interim Report

ON

LAWS RELATING TO THE LIABILITY OF EMPLOYERS TO MAKE COMPENSATION TO THEIR EMPLOYEES FOR INJURIES RECEIVED IN THE COURSE OF THEIR EMPLOYMENT WHICH ARE IN FORCE IN OTHER COUNTRIES, AND AS TO HOW FAR SUCH LAWS ARE FOUND TO WORK SATISFACTORILY

By

THE HON. SIR WILLIAM RALPH MEREDITH, C.J.,C.P., Commissioner

To His Honour Sir John Morison Gibson, K.C.M.G., K.C., LL.D., *Lieutenant-Governor of the Province of Ontario.*

May it Please Your Honour:

I have the honour to report that although considerable progress has been made in the prosecution of the inquiries which I was by Your Honour's Commission bearing date the 30th day of June, 1910, appointed to make "as to the laws relating to the liability of employers to make compensation to their employees for injuries received in the course of their employment, which are in force in other countries, and as to how far such laws are found to work satisfactorily," I am as yet unable to make any recommendation for enacting in this Province any of the provisions of these laws, or to report a bill embodying changes in the law which, in my opinion, should be adopted.

A considerable volume of oral evidence has been taken, and with the aid of the able and indefatigable Secretary of the Commission a large mass of documentary evidence has been obtained and collated, including copies of the laws which have been enacted in the countries of Europe and of North America.

Sufficient progress has, however, been made to warrant the statement that the law of Ontario is entirely inadequate to meet the conditions under which industries are now carried on or to provide just compensation for those employed in them who meet with injuries or suffer from occupational diseases contracted in the course of their employment.

It is satisfactory to be able to say that there is practical unanimity on this point, and that those who speak for the employers concede the justice of the claim made on behalf of the employees that the industries should bear the burden of making compensation.

The employers, however, contend that the whole of this burden should not be borne by them, but that the employees should share it, and suggest as a fair contribution by the employees 10 per cent. of the amount required to provide for the compensation.

This contention is strenuously opposed by the employees who take the position that the whole burden should be borne by the employers.

The basic principle that the burden of providing compensation should be borne by the industries being conceded, the question arises as to what form the legislation necessary to give effect to it should take.

Those representing the employers who have appeared before me favour what is practically a plan of mutual insurance, under the management of a Board appointed by the Crown, that the industries should be divided into groups or classes, and that an annual assessment should be made by the Board to meet the claims for the preceding year, each group or class being assessed only for the compensation for injuries happening in establishments within it, with a special additional assessment in all cases to provide a reserve fund.

This plan seems to be favoured by the representatives of labour organizations, as will be seen from their statement as to the form which, in their opinion, the proposed legislation should take, which was submitted to me—Schedule 1.

There being practically unanimity on the part of the employers and the employed as to these two main principles, it would seem to follow that it is reasonable that they should form the basis for provincial legislation, and as at present advised I shall be prepared to recommend a plan such as is proposed, if, after careful and thorough inquiry and examination I am satisfied that it is economically sound and workable.

There are yet to be considered many subsidiary but very important questions, and among them the following:

1. To what industries or employments the law should extend, and whether—
   (*a*) As in most countries it should be limited to dangerous occupations;
   (*b*) It should extend, as it does under the British Act, to the farming industry and to domestic servants;
   (*c*) It should extend to establishments in which less than a stated number of workmen are employed.

2. Whether there should be any and, if so, what "waiting period"—that is, a period for which no compensation can be claimed if the disability resulting from the injury does not last beyond it.

3. Whether in any and, if so, what cases the employee should not be entitled to compensation, *e.g.*, where the injury is the result of a serious and wilful misconduct on his part, or drunkenness, or the violation of law, or of a rule of the establishment.

4. Whether the compensation provided should be in lieu of the common law or other statutory right of the employee against his employer.

5. How the Board should be constituted.

6. Whether the decisions of the Board should be final or subject to appeal, and, if appealable, to what tribunal the appeal shall lie.

Careful inquiry must also be made as to the probable cost of administration and machinery must be provided for collecting the assessments and for the investigation and adjustment of claims, and this machinery must be made as simple and inexpensive as possible.

Whether or not use should be made of the municipal bodies for some of these purposes is, I think, worthy of serious consideration.

If the industries are to be divided into groups or classes, care will have to be taken in the selection of those which are to form each group.

It will also be necessary that a scale be adopted according to which the industries are to be assessed, as this will, of course, vary according to the nature of the

industry, and the hazard to which the employees are exposed. The preparation of this scale will require much consideration and must be entrusted to experts.

It will be necessary also, in order to provide for claims during the first year, that a special contribution be made, and to enable an estimate to be formed of the rate of this contribution an investigation as to the pay-rolls of the industries within the scope of the act, and other inquiries requiring care and time will be requisite.

I have thought it well to make these references to the work yet to be done and the principal points to be considered in order that the attention of those interested may be directed to them, and that they may be prepared to assist me by such suggestions as occur to them in the solution of the questions yet to be dealt with.

With the same object I annex Schedules containing a statement of the principal features of the laws of other countries, Schedules 2 and 3.

All of which is respectfully submitted.

W. R. MEREDITH,
Commissioner.

Dated at Toronto this 27th day of March, 1912.

SCHEDULE I

BRIEF OF TRADES AND LABOUR CONGRESS OF CANADA.

SIR WILLIAM MEREDITH, *Commissioner of the Provincial Government,*

RE WORKMEN'S COMPENSATION LEGISLATION.

SIR,—Understanding that it is the desire of the Commission to make recommendations for a Workmen's Compensation Act in harmony with modern industrial conditions, we have the honour to submit herewith recommendations for a Workmen's Compensation Act for the Province of Ontario.

These recommendations have been discussed, and unanimously agreed to, by representatives of the Dominion Trades and Labour Congress, Toronto Central Labour Council, The Building Trades Council of Toronto, and the Metal Trades Council, whose signatures are appended hereto.

We also understand that it is the expressed desire of the Commission to report to the next session of His Majesty's Provincial Legislature, the conclusions and recommendations for legislation, of this Commission, on this subject. We, therefore, have lost no time in taking the matter up, to suit the convenience of the Commission.

We propose to give plainly, therefore, the fundamental principles which we believe should be the basis for construction of a new Workmen's Compensation Act in this Province.

It is unnecessary to refer to the present legislation in Ontario. Its uselessness has been pointed out for years by representatives of labour, its obsoleteness indeed, preventing almost anyone from even an attempt to defend it.

The ancient character of the present legislation may make it seem to many that a new act in harmony with modern conditions, with modern legislation in countries that have made serious attempts to solve the question, is in the nature of radical legislation, but that is merely because the matter has been so long neglected in Ontario.

We propose that the new act shall cover:—

1. *All employments, the employees of the Province, Municipality, County, or other administrative bodies in the Province to be covered the same as employees in industries.*

2. *Compensation for all injuries arising out of, and in the course of employment.*

3. *Compensation for being disabled, or other injuries arising out of, or as the result of a specified occupation, the said disablement and injuries being in the nature of occupational diseases.*

4. *Entire cost of compensation to rest upon employer.*

5. *In the case of injuries resulting in death, the dependants, as outlined in the British Act and State of Washington Act, shall be the beneficiaries, with the expenses of the funeral as outlined also.*

6. *The doctrine of negligence on the part of employee or employer, fellow-servant or otherwise, shall have no place in the new legislation.*

7. *State insurance in connection with Compensation Act.*

8. *The creation of a Provincial Department of Insurance with three Commissioners for the purpose of administration of the act.*

9. *Compulsory insurance of employers in the State Department by a yearly tax levied upon the industry or occupation, covering the risk of the particular industry or occupation.*

10. *The tax shall be upon the yearly wage-roll.*

11. *No employer shall attempt to pay the tax by deduction of wages of employee, by agreement or otherwise, such action to be regarded as a gross misdemeanour as provided for in the State of Washington legislation.*

12. *The schedules of payment under the act, to be based upon the payments under the British Act, with the proportional increases due to the difference in the wages in Ontario, reflecting the difference in the cost of living.*

13. *The Provincial Government shall provide revenue for the creation of the Department of Insurance.*

The following will give you some idea of the weight of opinion in favor of the burden being borne by the employer, or industry alone:

Great Britain.—The employers alone bear the burden, and they insure voluntarily in state, mutual, or private stock companies.

Norway.—Employers bear the burden, and State insurance is compulsory.

Sweden.—Employers bear the burden and insure as in Great Britain.

Holland.—Employers bear the burden by compulsory insurance in State, mutual or private organization.

Denmark.—Employers bear the burden and insure as in Great Britain, but insurance is compulsory.

Belgium.—Employers bear the burden by voluntary insurance as in Great Britain.

France.—Employers bear the burden by voluntary insurance as in Great Britain.

Italy.—Employers bear the cost by compulsory insurance, but insure in State, mutual, or otherwise as in Great Britain.

Germany.—Employers bear the cost of workmen's compensation. Insurance is compulsory in State, mutual, trade associations, or State Executive Boards.

Wage-earners covered by such compensation:

Great Britain	13,000,000
Norway	400,000
Sweden	1,000,000
Holland	1,000,000
Belgium	2,100,000
France	9,500,000
Italy	10,000,000
Germany	15,000,000
Total	52,000,000

Fifty-two million workers covered by compensation legislation, in which the whole burden is on the employer or industry.

There are those who confuse the contributory schemes of sick insurance, invalidity and old age, with compensation legislation, but this Commission is not dealing with social insurance, only so far as it affects compensation for accidents, fatal or otherwise, arising out of or in the course of employment, and we, therefore, deal with it as such.

The doctrine of contributory negligence was the always fruitful source of litigation, and as the position, "that the worker would injure himself to obtain compensation" has become untenable, as well as the fact that if a workman takes risks, it is generally because in the nature of his employment, conditions make him do so, this doctrine has almost wholly passed away. It exists mostly in old legislation on the matter.

The tendency of thought in Europe as well as North America is toward compulsory State Insurance.

The British Act, an admirable one, is found to be in need of improvement in this direction, as the British Trades Congress, the mouthpiece of organized labour, is seeking to have established compulsory State Insurance in connection with the act.

The Manitoba Act, modelled upon British legislation, is found to be wanting improvement in this direction also, as the Central Labour Council in Winnipeg has expressed itself a short time ago as intending to seek compulsory State Insurance in connection with the legislation.

The splendid legislation of the State of Washington recently placed in operation with a State Department of Insurance, and a declaration of police power, is worthy of your most serious attention, from which we quote the following:

"The common law system governing the remedy of workmen against employers for injuries received in hazardous work is inconsistent with modern industrial conditions. In practice it proves to be economically unwise and unfair.

"Its administration has produced the result that little of the cost of the employer has reached the workmen, and that little only at large expense to the public.

"The remedy of the workman has been uncertain, slow and inadequate.

"Injuries in such works, formerly occasional, have become frequent and inevitable.

"The welfare of the State depends upon the industries, and even more upon the welfare of its wage-worker.

"The State of Washington, therefore, exercising herein its police and sovereign power, declares that all phases of the premises are withdrawn from private controversy, and sure and certain relief for workmen, injured in extra hazardous work and their families and dependants, is hereby provided, regardless of questions of fault, and to the exclusion of every other remedy, proceeding or compensation, except as otherwise provided in this act; and to that end all civil actions and civil causes of actions for such personal injuries and all jurisdiction of the courts of the State over such cases are hereby abolished, except as in this act provided."

Surely, Sir, this must commend itself as a guide for administration of compensation, without litigation, such as anyone, having at heart the welfare of the workers might follow.

Perhaps the best feature of the Washington legislation is the fact that it makes for the prevention of accidents, which we regard as more important than compensation. The taxing of industries, according to their respective risks, is an incentive to the employers to reduce the risks, which means a reduction of the yearly premium.

It is only by making risks expensive in industry to employers that we can hope to reduce them to a minimum.

Contracting-out clauses, sub-contractors' liabilities, all the aggravating questions of controversy and litigation, could be obviated by provincial compulsory insurance, with a department of administration, in connection with which the Pro-

vincial Health Department could on investigation among the workers of Ontario, tabulate what are occupational diseases in our own Province.

We believe that an act modelled upon the British Act in principle, with the compulsory State Insurance of the Washington Act, with its police administration and tax upon industry, as a preventative for accidents, would be the best for the workers as well as for the employers.

With regard to the sum of compensation in the schedules, we will be willing if you decide on the British Act altogether, to work out the payments for Ontario, taking into consideration the different financial proportions of wages and cost of living.

We would say, however, that if you follow the British Act completely, it should cover all workers in Ontario getting less than Two Thousand Dollars a year.

If, on the other hand, you should favour the act of the State of Washington, we will endeavor to prove to you that some of the payments made by the month are too low.

Anything less than either of these two acts will be inadequate to meet the needs of the workers of Ontario, and as this Province is the manufacturing centre of our Dominion, we claim that the legislation that should be adopted and which we desire is that pointed out by the fundamental principles we have laid down for your consideration.

Any further evidence you may need we will be only too pleased to procure, and we ask you to request our co-operation for this purpose at any time.

Signed by the following representatives, composing the combined committee:

Trades and Labour Congress of Canada:

Fred. Bancroft, Vice-President,
Joseph Gibbons,
J. W. Doggett.

Toronto District Trades and Labour Council:

Frank McCann, President,
Henry R. Barton, Secretary.

Metal Trades Council of Toronto:

James H. H. Ballantyne,
Joseph Helliker.

Building Trades Council of Toronto:

William Nettleship, President.

Andrew Miller, Business Agent, Brotherhood of Carpenters.

Joint Executive Board of the Carpenters' Organizations, Toronto:

H. A. Ryder,
Gerald Baines,
A. J. Udall,
George Thomson.

SCHEDULE II

LAWS OF EUROPEAN COUNTRIES AND THE PROVINCES OF CANADA.

Alberta.

Date of enactment. March 5, 1908, in effect January 1, 1909.

Injuries compensated. Injuries by accident arising out of and in the course of the employment which cause death or disable a workman for at least two weeks from earning full wages at the work at which he was employed. Compensation is not paid when injury is due to serious and wilful misconduct of the workman, unless the injury results in death or permanent disablement.

Industries covered. Railways, factories, mines, quarries, engineering work, construction, repair and demolition of buildings, either over 30 feet in height, or with the use of mechanical power.

Persons compensated. Any person employed in manual labour, and other employees whose remuneration does not exceed $1,200 a year.

Government employees. Government employees are covered by this act if employed in establishments or undertakings to which the law applies.

Burden of payment. Entire cost of compensation rests upon employer.

Compensation for death:

(*a*) To those entirely dependent on earnings of deceased, a sum equal to three years' earnings, but not less than $1,000, nor more than $1,800.

(*b*) To those partially dependent on earnings of deceased, a sum less than above amount, to be agreed upon by the parties or fixed by arbitration.

(*c*) Temporary payments previously made to be deducted from the above amounts.

(*d*) If the deceased leaves no dependants, reasonable expenses of medical attendance and burial, but not to exceed $200.

Compensation for disability. (1) A weekly payment of not more than 50 per cent. of employee's weekly earnings, but not exceeding $10 a week, for employees 21 years and over, or earning $10 a week and over; (2) 100 per cent. of employee's earnings, but not exceeding $7.50 a week for employees under 21 years of age and earning less than $10.

For partial disability, such weekly payment "as may appear proper" with regard to the difference between employee's average weekly earnings before the accident and average weekly amount which he is earning or able to earn after the injury, but not to exceed the amount of the difference.

A lump sum may be substituted for the weekly payments after six months, on the application of the employer, the amount to be settled by agreement or by the courts.

Revision of compensation. Weekly payments may be revised at request of either party.

Insurance. Employers may make contracts with employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act, if the Attorney-General certifies that the scheme is not less favourable to the workmen and their dependants than the provisions of the act, and that a majority of the workmen are favourable to the substitute. The employers are then liable only in accordance with the provisions of the scheme.

Guarantee of Payment. In case of employer's bankruptcy the amount of compensation due under this act, up to $500 in any individual case, is classed as a preferred claim, or when an employer has entered into a contract with insurers in respect of any liability under the act to any workman, such rights of the employer, in case he becomes bankrupt, are transferred to and vested in the workman.

Settlement of disputes. Disputes arising under the act are settled by arbitration, either by an arbitration committee representing employer and employees, or by an arbitrator, or in absence of an agreement by the court. The Attorney-General may confer upon such arbitration committee any or all of the powers of courts in connection with the act.

Austria.

Date of enactment. December 28, 1887; in effect November 1, 1889. Amendatory Acts, March 30, 1888; April 4 and July 28, 1889; January 17, 1890; December 30, 1891; September 17, 1892; July 20, 1894, and July 12, 1902.

Injuries compensated. All injuries causing death or disability for more than three days received in the course of employment, unless caused intentionally.

Industries covered. Mining, quarrying, stone-cutting, manufacturing, building trades, railways, transportation on inland waters, storage, theatres, chimney sweeping, street cleaning, building, cleaning, sewer cleaning, dredging, well digging, structural iron working, etc.; agricultural and forestry establishments using machinery.

Persons compensated. All workmen and technical officials regularly employed, but in agriculture and forestry only employees exposed to machinery.

Government employees. Act applies to government employees unless an equal or more favourable compensation is provided by other laws.

Burden of payment. Medical and surgical treatment for twenty weeks and compensation for four weeks of disability paid by sick funds, to which employers contribute one-third and employees two-thirds. Compensation for disability after fourth week, and for death, paid by territorial insurance associations, to which employees contribute 10 per cent. and employers 90 per cent.

Compensation for death:

(*a*) Funeral expenses, not to exceed 25 florins ($10.15).

(*b*) Pensions to members of family, not to exceed 50 per cent. of earnings of deceased. To widow, 20 per cent. until death or remarriage; in the latter case a lump sum equal to three annual payments; to dependent widower, 20 per cent. during disability. Each legitimate child, 15 years of age or under, 15 per cent. when one parent survives and 20 per cent. when neither survives; to each illegitimate child, 15 years of age or under, 10 per cent.; pensions of widow (or widower) and children reduced proportionately if they aggregate over 50 per cent.

(*c*) When pensions to above heirs do not reach 50 per cent., dependent heirs in ascending line receive pensions, not to exceed 20 per cent of earnings of deceased, parents taking precedence over grandparents.

(*d*) In computing pensions, the excess of the annual earnings over 1,200 florins ($487.20) is not considered.

Compensation for disability:

(*a*) Medical and surgical attendance for 20 weeks, paid by sick benefit fund.

(*b*) For total temporary or permanent disability, 60 per cent. of average daily wages of insured workmen in the locality, paid by sick benefit funds,

from first to twenty-eighth day; and 60 per cent. of average annual earnings of injured person, after twenty-eighth day, paid by territorial accident insurance institutions.

(*c*) For partial temporary or permanent disability, benefits consist of a portion of above allowance, but may not exceed 50 per cent. of average annual earnings.

(*d*) In computing payments, the excess of annual earnings over 1,200 florins ($487.20) is not considered.

Revision of compensation. Reconsideration of the case may be undertaken by the insurance association of its own will, or upon petition.

Insurance. Payments are met by mutual insurance associations of employers in which all employees are required to be insured. The country is divided into districts, with a separate association for each district.

Guarantee of payments. Operations of the insurance associations are conducted under the supervision of the Minister of Interior, who may increase the assessments.

Settlement of disputes. Disputes are settled by arbitration courts composed of a judicial officer appointed by the Minister of Justice, two experts appointed by the Minister of the Interior, and one representative each of the employers and the employees.

Belgium.

Date of enactment. December 24, 1903, in effect July 1, 1905.

Injuries compensated. All injuries by accident to employees in the course of and by reason of the execution of the labour contract, causing death or disability for over one week, unless intentionally brought on by the person injured.

Industries covered. Practically all establishments in mining, quarrying, forestry work, manufacturing, building and engineering work, transportation, and telephone and telegraph services; establishments using mechanical motive power; industrial establishments employing five or more persons; agricultural and commercial establishments employing three or more persons; industries designated by royal decree as dangerous. Other industries at option of employer.

Persons compensated. Workmen and apprentices, and salaried employees exposed to the same risks as workmen whose annual salaries do not exceed 2,400 francs ($463.20).

Government employees. Act covers employees of any public establishment engaged in industries enumerated above.

Burden of payment. Entire cost of compensation rests upon employer.

Compensation for death:

(*a*) Funeral benefit of 75 francs ($14.48).

(*b*) A sum representing value of an annuity of 30 per cent. of annual earnings of deceased, calculated upon basis of his age at death, to be distributed to:

Dependent widow or widower, whole amount if no other heirs, four-fifths if one child under 16 years of age or one or more dependent heirs, three-fifths if two or more children.

Children under 16 years of age, the residue.

Dependent heirs in ascending line and descending line under 16 years of age, in absence of widow or widower or children under 16 years of age.

Dependent brothers and sisters under 16 years of age, in absence of heirs above enumerated.

(*c*) Allowances in case of annual wages of 2,400 francs ($463.20) or more, or of 365 francs ($70.45) or less, are based upon these amounts, respectively.

(*d*) Payments to widow and heirs in ascending line are converted into life pensions, those to other heirs into pensions expiring at age of 16 years. Heirs may require one-third of capital value of life pensions to be paid in cash and pension reduced accordingly.

Compensation for disability:

(*a*) Expense of medical and surgical treatment for not over six months.

(*b*) If totally disabled, an allowance of 50 per cent. of daily wages, beginning with the day after accident.

(*c*) If partially disabled, an allowance of 50 per cent. of loss of earning power, beginning with day after accident.

(*d*) If, after three years, disability is permanent, temporary allowance is replaced by life annuity. Victim may require one-third of capital value of pension to be paid in cash and pension reduced accordingly.

(*e*) Allowances in case of annual wages of 2,400 francs ($463.20) or more, or of 365 francs ($70.45) or less, are based upon these amounts respectively.

Revision of compensation. Revision of compensation because of aggravation or diminution of disability, or death of victim, may be made within three years.

Insurance. Employers may transfer burden of payment of compensation to establishment funds, or to approved insurance companies, or to general savings and retirement fund. They may also transfer burden of payment of temporary allowances to mutual aid societies.

Guarantee of payment. Employers who have not relieved themselves of liability by insurance must make deposits of cash or securities or give real estate mortgages to secure pension payments. To secure temporary disability payments of uninsured employers, a State guaranty fund is maintained by a tax levied upon such employers.

Settlement of disputes. The local justice of the peace has sole jurisdiction as a court of first resort over disputes arising under the Act, and his judgment is final in all cases involving 300 francs ($57.90) or less.

British Columbia.

Date of enactment. June 21, 1902, in effect May 1, 1903; R. S. 1911, c. 244.

Injuries compensated. Injuries by accident arising out of and in the course of the employment which cause death or disable a workman for at least two weeks from earning full wages at the work at which he was employed, unless the injury is "attributable solely to the serious and wilful misconduct or serious neglect" of the injured workman.

Industries covered. Railways, factories, mines, quarries, engineering work, and buildings which exceed 40 feet in height and are being constructed or repaired by means of a scaffolding or being demolished or on which machinery driven by mechanical power is used for construction, repair or demolition.

Persons compensated. All persons engaged in manual labour or otherwise.

Government employees. Act applies to civilian employees in the service of the Crown, to whom it would apply if the employer were a private person.

Burden of payment. Entire cost of compensation rests upon employer.

Compensation for death:

(*a*) A sum equal to three years' earnings, but not less than $1,000 nor more than $1,500, to those wholly dependent on earnings of deceased.

(*b*) A sum less than above amount if workman leaves persons partially dependent on his earnings, the amount to be agreed upon by the parties or to be fixed by arbitration.

(*c*) Reasonable expenses of medical attendance and burial not exceeding $100, if deceased leaves no dependants.

Compensation for disability:

(*a*) A weekly payment during disability after second week, not exceeding 50 per cent. of employee's average weekly earnings during the previous twelve months, such weekly payments not to exceed $10, and total liability not to exceed $1,500.

(*b*) A weekly payment during partial disability after second week to be fixed with regard to the difference between employee's average weekly earnings before the accident and average weekly amount he is earning or able to earn after the injury.

(*c*) A lump sum may be substituted for the weekly payments, after six months, on the application of the employer, the amount to be settled in default of agreement, by arbitration under the act.

Revision of compensation. Weekly payments may be revised at request of either party.

Insurance. Employers may contract with their employees for the substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act if the Attorney-General certifies that the scheme is on the whole not less favourable to the general body employees and their dependants than the provisions of the act. In such case the employer is liable only in accordance with this scheme.

Guarantee of payment. When an employer becomes liable under the act to pay compensation and is entitled to any sum from insurers on account of the amount due to a workman under such liability, then in the event of the employer becoming bankrupt, such workman has a first claim upon the amount so due, and a judge of the Supreme Court may direct the insurers to pay such sum into any chartered bank of Canada to be invested or applied to payment of compensation.

Settlement of disputes. Disputes arising under the act are settled by arbitration of existing committees representative of employers and employees, or if either party objects, by a single arbitrator agreed upon by the parties, or, in the absence of agreement, by an arbitrator appointed by a judge of the Supreme Court. An arbitrator appointed by a judge of the Supreme Court has all the power of a judge of the Supreme Court. Questions of law may be submitted by the arbitrator for the decision of a judge of the Supreme Court.

Cape of Good Hope.

Date of enactment. June 6, 1905, in effect September 1, 1905.

Injuries compensated. All injuries to employees arising out of and in the course of the employment causing death or necessitating absence from work for more than three days and not being caused by or through the gross carelessness of the injured employee.

Industries covered. Any trade, business, or public undertaking, on land or upon or within the territorial waters of the colony, except domestic, messenger or errand service, or employment in agriculture.

Persons compensated. Employees, whether engaged in manual work or otherwise.

Government employees. Act applies to civilian persons employed by or under the Crown to whom it would apply if employer were a private person.

Burden of payment. Employer and every principal are jointly and severally liable for the compensations required under the act.

Compensation for death:

When death results from an injury for which a lump sum has not already been paid on account of permanent disability—

(*a*) A lump sum not exceeding three years' wages of deceased, nor more than £400 ($1,946.60), to those wholly dependent upon the workman's earnings.

(*b*) A lump sum not exceeding £200 ($973.30) to those partially dependent upon the workman's earnings; in the absence of persons totally dependent, the sum not to exceed the value of the support which they were receiving from the deceased, calculated for two years.

(*c*) Temporary payments previously made not to be deducted from above sums unless they have continued longer than three months.

(*d*) Reasonable expenses of medical attendance and burial not to exceed £40. ($194.66) in case deceased leaves no dependants.

Compensation for disability:

(*a*) A sum not exceeding three years' wages, less any payments received under a provisional order of court, but not exceeding £600 ($2,919.90) in case of permanent total disability, and a smaller sum in proportion to loss of earning power and not exceeding £300 ($1,459.95) in case of permanent partial disability.

(*b*) A payment made, by order of the local magistrate at the same intervals as the customary wage payments, not exceeding 50 per cent of wages received at time of the injury, nor £2 ($9.73) per week, if the injury causes temporary disability lasting more than three days.

Revision of compensation. The provisional order may be set aside or altered by the magistrate, upon request of either party, if justified by a further examination of the injured person or by production of additional evidence.

Insurance. Employers may insure in a company or association against personal injury to the workmen employed by them or in their behalf. If the employer contributes toward a benefit society of which the injured or deceased person is a member, allowance is made for such contribution by the court in its order or judgment fixing amount of compensation to be paid.

Guarantee of payment. When an employee or principal is adjudged or admits liability under the act and is entitled to any sum from any insurers on account of such liability, then, in the event the employer becomes insolvent, the worker or his dependants have a first claim upon such sum.

Settlement of disputes. Compensation in cases of disability is fixed provisionally for not more than six months by the local magistrate after receiving a physician's certificate of disability and holding an inquiry. No appeal can be taken from this preliminary order except against a finding on the question of gross carelessness, and then only upon leave granted by the Superior Court. In case the injury results in death or permanent disability, the claimants have a right of action in the local magistrate's court for the amounts due under the law. In fixing the amount, the court is required in every case to have regard to the workman's or the dependant's necessities.

Denmark.

Date of enactment. January 7, 1898, in effect January 15, 1899; amended May 15, 1903.

Injuries compensated. All injuries by accident occasioned by the trade or its conditions, and causing either death or disability lasting over thirteen weeks, unless brought on intentionally or through gross negligence of the victim.

Industries covered. Practically all establishments in mining, quarrying, manufactures, building and engineering work, transportation, telephone and telegraph service, diving and salvage; establishments using mechanical power which makes them subject to factory inspection; other industrial establishments designated by the minister of the interior.

Persons compensated. All workmen in mechanical and technical departments, including those in a supervisory capacity whose annual earnings do not exceed 2,400 crowns ($643.20).

Government employees. Act applies to all employees of state and communal governments in industries above indicated.

Burden of payment. Entire burden of payment rests upon employer.

Compensation for death:

(*a*) Funeral benefit of 50 crowns ($13.40).

(*b*) A lump sum equal to four times annual earnings of deceased, but not over 3,200 crowns ($857.60) nor less than 1,200 crowns ($321.60), to widow whole amount if she survives. Child, whole amount if it be the only heir. Children, according to decision of insurance council, when there is no widow. If neither widow nor children, insurance council decides whether and how far other heirs receive compensation.

Compensation for disability:

(*a*) From end of thirteenth week after accident until end of treatment, or until disability is declared permanent, a daily compensation of 60 per cent of earnings, but not less than 1 crown (27 cents) nor over 2 crowns (54 cents) for total disability and a proportionate compensation for partial disability.

(*b*) In case of permanent disability and indemnity of six times annual earnings, but not less than 1,800 crowns ($482.40) nor over 4,800 crowns ($1,286.40) for total permanent disability, and proportionate payments for partial permanent disability.

(*c*) If employee suffering from permanent disability is a male between 30 and 55 years of age, he may demand purchase of an annuity. For men of other ages, or of unsound mind, or women and children, the insurance council may substitute an annuity.

Revision of compensation. Determination of degree of permanent disability must be made as soon as possible after one year from date of injury. If this be not possible, a temporary determination may be made, but a redetermination may be demanded within two years following.

Insurance. Employers may transfer obligation imposed by the law, by insuring their employees in authorized insurance companies or mutual employers' insurance associations.

Guarantee of payment. Where liability under the law has not been transferred by insurance, indemnity for disability is a preferred claim upon assets of employer.

Settlement of disputes. Disputes concerning compensation, unless settled by mutual consent, must be referred to insurance council. Appeals may be had to the Minister of the Interior.

Finland.

Date of enactment. December 5, 1895, in effect January 1, 1898.

Injuries compensated. All injuries by accident during work, causing death or disability for more than six days, except when brought on intentionally or through gross negligence of the workman, intentionally by any other person than the one charged with supervision of the work, or caused by some other occurrence utterly independent of the nature or conditions of work.

Industries covered. Pits, mines, quarries, metallurgical establishments, factories, sawmills, industrial establishments using mechanical power, breweries, distilleries, construction of churches and buildings over one story high; construction and operation of water, gas, electric power plants, and operation of railroads.

Persons compensated. All persons actually employed at work, but not those who merely supervise the work.

Government employees. Act applies to employment on the state and communal construction works and state railways.

Burden of payment. Entire burden of payment rests upon employer.

Compensation for death. In addition to any prior payments on account of disability, pensions to dependent heirs, from day of death, not exceeding 40 per cent. of annual earnings of deceased, to—

(*a*) Widow, 20 per cent., until death or remarriage; in latter case a final sum equal to two annual payments.

(*b*) Each child until the age of 15 years, 10 per cent., if one parent survives, and 20 per cent. if neither parent survives.

(*c*) In computing pension, earnings of workmen to be considered not over 700 marks ($138.96), nor under 300 marks ($57.90); but no adult employee to receive a pension greater than his actual earnings.

Compensation for disability:

(*a*) A pension equal to 60 per cent. of employee's earnings for total disability, or a pension proportionate to the degree of incapacity for partial disability, to be paid from day of recovery from illness due to injury, or after 120 days have elapsed since injury.

(*b*) Pension may by mutual consent be replaced by single payment, if it does not exceed 20 marks ($3.86) annually.

(*c*) In computing pension, earnings of workman to be considered not over 720 marks ($138.96) nor under 300 marks ($57.90); but no adult employee to receive a pension greater than his actual earnings.

(*d*) In cases of temporary disability (including all cases of disability for 120 days after injury), daily compensation of 60 per cent. of earnings, beginning with seventh day after accident, for complete temporary disability, and proportionate compensation for partial disability; but not more than 2.50 marks (48 cents) per diem.

(*e*) Until recovery, injured employee may be given treatment in a hospital in lieu of other compensation: during such treatment his wife and children get a compensation equal to pension in case of death.

Revision of compensation. Demands for revision of compensation may be made by either party before proper court.

Insurance. Employers are required to transfer the burden of payment of compensation to a governmental insurance office, private insurance company, mutual employers' insurance association, or approved foreign insurance company, unless unable to obtain such insurance or released from this obligation on presentation of satisfactory guarantees.

Guarantee of payment. When exempted from the duty of insuring his employees, or unable to obtain insurance, the employer must guarantee payment of pension to the injured workman or his family by arrangement with a private insurance company.

Settlement of disputes. In case of absence of insurance or dissatisfaction with decision of insurance company, injured employee or his dependant may carry the case into the inferior court of the locality.

France.

Date of enactment. April 9, 1898, in effect July 1, 1899: amendatory and supplementary acts March 22, 1902, March 31, 1905, April 12, 1906, and July 17, 1907.

Injuries compensated. All injuries by accident to workmen or salaried employees during or on account of labour causing death or disability for five or more days, unless produced intentionally by the victim. If due to inexcusable fault of victim or of employer, compensation may by a court order be decreased or increased, but not exceeding actual earnings of victim.

Industries covered. Building trades, factories, workshops, shipyards, transportation by land and water, public warehouses, mining and quarrying, manufacture or handling of explosives, agriculture and other work using mechanical power, and mercantile establishments: other industries on request of both parties.

Persons compensated. All workmen and salaried employees.

Government employees. Law applies to state, departmental and communal establishments when engaged in industries enumerated above.

Burden of payment. Entire cost of compensation falls upon employer.

Compensation for death:

(*a*) Funeral expenses not exceeding 100 francs ($19.30).

(*b*) Pensions to dependent heirs not exceeding 60 per cent of annual wages of deceased, distributed to—

Widow or widower, 20 per cent. until death or remarriage, in which latter case a final sum equal to three annual payments.

Children under 16 years of age, if one parent survives, 15 per cent. if there is but one child; 25 per cent. if there are two children; 35 per cent. if there are three children; 40 per cent. if there are four or more children.

Each child under 16 years of age, if neither parent survives, 20 per cent.

Each ascendant and each descendant under 16 years of age dependent upon deceased, if no widow or children survive, 10 per cent., the aggregate not to exceed 30 per cent.

(*c*) If annual wages exceed 2,400 francs ($463.20), only one-fourth of the excess is considered in computing pensions.

Compensation for disability:

(*a*) Expenses of medical or surgical treatment.

(*b*) If permanently disabled, a pension of 66 2-3 per cent. of annual wages for total disability, and of one-half loss of earning capacity for partial disability; or, if demanded, one-fourth the capital value of pension in cash, the pension to be reduced accordingly.

(*c*) If temporarily disabled, an allowance of 50 per cent of daily wages, beginning with fifth day, and including Sundays and holidays, unless disability lasts more than ten days, when payments become due from the first day.

(*d*) If annual wages exceed 2,400 francs ($463.20), only one-fourth of the excess is considered in computing pensions.

(*e*) Payments of pensions of not over 100 francs ($19.30) per annum, may, by mutual consent when beneficiary is of age, be replaced by a cash payment.

Revision of compensation. Revision of compensation because of aggravation or diminution of disability of victim may be made within three years.

Insurance. Employers may transfer burden of payment of compensation to approved mutual aid, accident insurance, or guaranty associations, or in case of pensions, to national accident insurance or national old-age pension funds.

Guarantee of payment. The State guarantees against loss of pension payments on account of insolvency of employers or insurance organizations, and is reimbursed by a special tax on employers within scope of the act. For temporary disability payments, medicines and medical or surgical attendance, and funeral expenses the victim, his creditors, or representatives have a preferred claim on property of employer.

Settlement of disputes. Disputes as to pensions involving more than 300 francs ($57.90) may be carried into higher civil courts, judgment of local justice of the peace is final in other cases.

Germany.

Date of enactment. July 6, 1884, in effect October 1, 1885. Supplementary Acts of May 28, 1885, May 5, 1886, July 11 and 13, 1887. A codification enacted June, 30, 1900; July 19, 1911.

Injuries compensated. Injuries by accident in the course of the employment, causing death or disability for more than three days, unless caused intentionally. Compensation may be refused or reduced if injury was received while committing an illegal act.

Industries covered. Mining, salt works, quarrying and allied industries, shipyards, factories, smelting works, building trades, chimney sweeping, window cleaning, butchering, transportation and handling agriculture, forestry, and fisheries.

Persons compensated. All workmen, and those technical officials whose annual earnings are less than 3,000 marks ($714). With the approval of the Imperial Insurance Office, the law may be extended to other classes.

Government employees. Act covers government employees in postal, telegraph, and railway services and in industrial enterprises of army and navy, unless otherwise provided for.

Burden of payment. Medical and surgical treatment for ninety-one days and benefit payments from third to ninety-first days are provided by sick-benefit funds to which employers contribute one-third and employees two-thirds; from twenty-eighth to ninety-first day payments are increased by one-third at expense of employer in whose establishment accident occurred; after ninety-first day, and in case of death from injuries, expense is borne by employers' associations supported by contributions of employers.

Compensation for death:

(*a*) Funeral benefits of one-fifteenth of annual earnings of deceased, but not less than 50 marks ($11.90).

(*b*) Pensions to dependent heirs not exceeding 60 per cent. of annual earnings of the deceased, as follows: widow, 20 per cent of annual earnings until death or remarriage, in latter case a final sum equal to three annual payments; dependent widower, 20 per cent of annual earnings; each child 15 years of age or under, 20 per cent.: payments to consort and children to be reduced proportionately if the total would exceed 60 per cent; dependent heirs in ascending line, 20 per cent. or less, if there is a residue after providing for above heirs; orphan grandchildren, 20 per cent. or less, if there is a residue after providing for above heirs.

(*c*) If annual earnings exceed 1,500 marks ($357) only one-third of excess is considered in computing pensions.

Compensation for disability:

(*a*) Free medical and surgical treatment paid first thirteen weeks by sick-benefit funds, and afterwards by employers' associations.

(*b*) For temporary or permanent total disability, 50 per cent. of daily wages of persons similarly employed, but not exceeding 3 marks (71 cents), paid by sick-benefit funds from third day to end of fourth week; from fifth to end of thirteenth week, above allowance by sick-benefit funds, plus 16 2-3 per cent. contributed by employer direct; after 13 weeks, 66 2-3 per cent. of average annual earnings of injured person paid by employers' association.

(*c*) For complete helplessness, necessitating attendance, payments may be increased to 100 per cent. of annual earnings.

(*d*) For partial disability, a corresponding reduction in payments.

(*e*) If annual earnings exceed 1,500 marks ($357), only one-third of excess is considered in computing pensions.

Revision of compensation. Whenever a change in condition of injured person occurs a revision of benefits may be made.

Insurance. Payments are met by mutual insurance associations of employers, in which all employees are required to be insured at the expense of employers. Separate associations have been organized for each industry.

Guarantee of payment. Solvency of employers' associations is guaranteed by the State.

Settlement of disputes. Disputes are settled by "arbitration courts for workmen's insurance," composed of one government official, two representatives of workmen, and two of employers.

Great Britain.

Date of enactment. December 21, 1906, in effect July 1, 1907, replacing Acts of August 6, 1897, and July 30, 1900.

Injuries compensated. Injuries by accident arising out of and in the course of the employment which cause or disable a workman for at least one week from earning full wages at the work at which he was employed. Compensation is not paid when injury was due to serious and wilful misconduct, unless it results in death or serious and permanent disablement.

Industries covered. "Any employment."

Persons compensated. Any person regularly employed for the purposes of the employer's trade or business whose compensation is less than £250 ($1,216.63) per annum; but persons engaged in manual labor only are not subject to this limitation.

Government employees. Act applies to civilian persons employed under the Crown to whom it would apply if the employer were a private person.

Burden of payment. Entire cost of compensation rests upon employer.

Compensation for death:

(*a*) A sum equal to three years' earnings, but not less than £150 ($729.98) nor more than £300 ($1,459.95), to those entirely dependent on earnings of deceased.

(*b*) A sum less than above amount if deceased leaves persons partially dependent on his earnings, amount to be agreed upon by the parties or fixed by arbitration.

(*c*) Reasonable expenses of medical attendance and burial, but not to exceed £10 ($48.67) if deceased leaves no dependants.

Compensation for disability:

(*a*) A weekly payment during incapacity of not more than 50 per cent. of workman's average weekly earnings during previous twelve months, but not exceeding £1 ($4.87) per week; if incapacity lasts less than two weeks no payment is required for the first week.

(*b*) A weekly payment during partial disability, not exceeding the difference between workman's average weekly earnings before injury and average amount which he is earning or is able to earn after injury.

(*c*) Minor persons may be allowed full earnings during incapacity, but weekly payments may not exceed 10 shillings ($2.43).

(*d*) A sum sufficient to purchase a life annuity through the Post Office Savings Bank of 75 per cent. of annual value of weekly payments may be substituted, on application of the employer, for weekly payments after six months; but other arrangements for redemption of weekly payments may be made by agreement between employer and workman.

Revision of compensation. Weekly payments may be revised at request of either party, under regulations issued by the Secretary of State.

Insurance. Employers may make contracts with workmen for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act, if the registrar of friendly societies certifies that the scheme is not less favorable to the workmen and their dependants than the provisions of the act, and that a majority of the workmen are favourable to the substitute. The employer is then liable only in accordance with the provisions of the scheme.

Guarantee of payment. In case of employer's bankruptcy, the amount of compensation due under the act, up to £100 ($486.65) in any individual case, is

classed as a preferred claim; or where an employer has entered into a contract which insures in respect of any liability under the act to any workman, such rights of the employer, in case he becomes bankrupt, are transferred to and vested in the workman.

Settlement of disputes. Questions arising under the law are settled either by a committee representative of the employer and his workmen, by an arbitrator selected by the two parties, or if the parties can not agree, by the judge of the county court, who may appoint an arbitrator to act in his place.

Greece.

Date of enactment. February 21, (March 6), 1901, in effect (retroactively) December 20, 1900, (January 2, 1901).

Injuries compensated. All injuries by accident during or because of the employment, and causing death or disability lasting more than four days, unless brought on intentionally by the injured person.

Industries covered. Mines, quarries, and metallurgical establishments.

Persons compensated. All workmen and subordinate salaried persons.

Government employees. No mention of government employees is made in the law.

Burden of payment. Employer carries full burden of payment of indemnities during first three months; after three months half payments of pensions are contributed by the miners' fund, which is mainly supported by a tax on the mines and metallurgical establishments, but partly by contributions from the workmen's mutual aid societies in these establishments and some minor sources.

Compensation for death:

(*a*) If death occurs immediately or within three months; (1) Funeral expenses amounting to 60 drachmas ($11.58); (2) Pensions to heirs aggregating pension paid for total disability.

(*b*) If death occurs three months after injury or later, pensions to heirs aggregating 75 per cent. of pension paid during life of the injured.

(*c*) All pensions to heirs are distributed as follows: Equal share to widow and children, or, in absence of widow and children equal share to father and mother.

(*d*) Pension to widow ceases on her remarriage; to male children at 16 years of age; to female children on their marriage, with payment of one year's pension as a dowry.

(*e*) If only one heir survives he is entitled to only one-half of original pension.

Compensation for disability:

(*a*) Free medical and surgical treatment.

(*b*) An allowance of 50 per cent. of earnings of injured employee during first three months.

(*c*) If permanently disabled, a pension of 50 per cent. of earnings in case of total disability (including loss of a hand or foot); in case of partial disability, a pension of 33 1-3 per cent. of earnings, pension payments to begin after end of third month.

(*d*) Pension may not exceed 100 drachmas ($19.30) per month, plus 25 per cent. of the excess of computed pension over 100 drachmas ($19.30).

(*e*) In computing pension of apprentices and children, no wage is to be considered less than 2.50 drachmas (48 cents) per day.

Revision of compensation. Injured employees may present a new petition, or the council of the miners' fund may order a new examination, whenever there is reason to believe that changes have occurred in the degree of disability.

Insurance. No provision is made by the law for the transfer of the burden of payment of compensation by insurance.

Gurantee of payment. The miners' fund guarantees payment of pensions and other allowances, and has preferred claim upon employer's assets in cases of dissolution or forced sale of establishments, and also in case of voluntary transfer, unless the new proprietor assumes the obligations under the law.

Settlement of disputes. Amount of pension is settled by the council of the miners' fund, and appeals against its decisions may be carried into the ordinary courts.

Holland.

Date of enactment. January 2, 1901, in effect June 1, 1901. Other acts February 3, and December 8, 1902, and July 24, 1903.

Injuries compensated. All injuries caused by accident in the course of the employment and causing death or disability for over two days, unless brought on intentionally. If due to intoxication, compensation is reduced one-half; and if death results no compensation is paid.

Industries covered. Practically all manufacturing, mining, quarrying, building, engineering construction, and transportation; fishing in internal waters, establishments using mechanical motive power, or explosive or inflammable materials, and mercantile establishments handling such materials.

Persons compensated. All workmen, including apprentices.

Government employees. All State, provincial, and communal employees are included when engaged in any of the industries enumerated.

Burden of payment. The entire expense rests upon the employer.

Compensation for death:

(*a*) Funeral benefit of thirty times average daily earnings of deceased.

(*b*) Pensions to heirs of not over 60 per cent. of earnings of deceased, distributed to—

Widow, 30 per cent. of earnings, until death or remarriage, in latter case two years' payments as a settlement; or to dependent widower, a pension equal to cost of support, but not over 30 per cent. of earnings of deceased.

Each child under 16 years of age, 15 per cent. if one parent survives, and 20 per cent. if both are dead.

Dependent parents, and in their absence to grandparents, not over 30 per cent.

Orphan grandchildren, not over 20 per cent.

Dependent parents-in-law, not over 30 per cent.

Widow and children to be preferred over all other heirs, and their respective shares to be reduced proportionately when aggregating over 60 per cent.

(*c*) In computing pensions, wages higher than 4 florins ($1.61) per day are to be considered as of that amount.

Compensation for disability:

(*a*) Free medical and surgical treatment, or its cost.

(*b*) From day after injury until forty-third day, an allowance of 70 per cent. of daily earnings, excluding Sundays and holidays.

(*c*) From forty-third day a pension of above amount during total disability and a smaller pension in proportion to loss of earning power if partially disabled.

(*d*) In computing pensions, wages higher than 4 florins ($1.61) per day are to be considered as of that amount.

Revision of compensation. An examination of condition of victim may be made whenever the Royal Insurance Bank so desires.

Insurance. Employers may insure their employees in the Royal Insurance Bank (a State institution), in a private company or association operating under State supervision, or they may carry the burden themselves. If not insured in the Royal Insurance Bank a sufficient guarantee must be deposited with the latter. Employers must bear a proportionate share of the expense of administration of the Royal Insurance Bank, whether they insure in it or not.

Guarantee of payment. Compensation payments are guaranteed by the State.

Settlement of disputes. Appeals may be taken from decisions of the Royal Insurance Bank to local arbitration councils, in which employers and employees are equally represented, and from them to a central arbitration council whose decisions are final.

Hungary.

Date of enactment. April 9, 1907, in effect July 1, 1907.

Injuries compensated. Injuries by accident in the course of the employment causing death or disability for more than three days. Injuries caused intentionally are not compensated unless fatal.

Industries covered. All factories subject to inspection, mines, quarries, metallurgical establishments, building trades, lumbering, construction work, shipbuilding, slaughter houses, pharmacies, sanatoria, theatres, institutes of art and science.

Persons compensated. All employees in industries enumerated.

Government employees. Act covers government employees in state, municipal, and communal industries enumerated above.

Burden of payment. All benefits and cost of treatment for first ten weeks provided by sick funds to which employers and employees contribute equally. Beginning with eleventh week, entire cost is defrayed by employers through the accident fund.

Compensation for death:

(*a*) Funeral benefit of twenty times average daily wages.

(*b*) Pensions to heirs not exceeding 60 per cent of annual earnings of deceased, as follows: Widow, 20 per cent. of annual earnings until death or remarriage; in latter case a final sum equal to 60 per cent. of annual earnings; or to dependent widower 20 per cent. during disability.

Each child 16 years of age or under, 15 per cent., if one parent survives, 30 per cent., if neither survives; payments to consort and children reduced proportionately if they aggregate more than 60 per cent.

Dependent parents and grandparents, if there is a residue after providing for above heirs, 20 per cent. or less.

Dependent orphan grandchildren 15 years of age or under, if there is a residue after providing for above heirs, 20 per cent. or less.

(*c*) In computing pensions the excess of annual earnings above 2,400 crowns ($487.20) is not considered.

Compensation for disability:

(*a*) Free medical and surgical treatment provided first ten weeks by sick fund, and afterward by accident fund.

(*b*) For temporary or permanent total disability, 50 per cent. of average daily wages, but not exceeding 4 crowns (81 cents) for first ten weeks, provided by sick fund; beginning with eleventh week, 60 per cent of average annual earnings, provided by accident fund.

(*c*) For complete helplessness necessitating attendance payments may be increased to 100 per cent. of annual earnings.

(*d*) For partial disability a corresponding portion of full pension.

(*e*) In computing pensions the excess of annual earnings above 2,400 crowns ($487.20) is not considered.

Revision of compensation. Whenever a change in condition of injured person occurs, the accident fund or the injured person may ask for a revision of the benefits.

Insurance. Payments are met by a State insurance institution, in which all employees are required to be insured at the expense of the employers.

Guarantee of payment. Guaranteed by the State.

Settlement of disputes. Disputes are settled by arbitration courts, consisting of a presiding judge and an equal number of representatives of workmen and employers.

Italy.

Date of enactment. March 17, 1898, in effect September 17, 1898. Amended June 29, 1903. Promulgated in codified form January 31, 1904.

Injuries compensated. All injuries sustained by workmen or salaried employees during or on account of labor. If due to wilful misconduct, employer may be reimbursed through criminal action.

Industries covered. Mines, quarries, building trades; light, heat and power plants, arsenals, maritime construction work, transportation, industries requiring the use or handling of explosives, all industrial or agricultural work in proximity to power machinery; where more than five persons are employed in engineering construction work; operation for protection against landslides, floods, hailstorms; logging and timber rafting, and shipbuilding.

Persons compensated. All workmen and apprentices and overseers receiving not more than 7 lire ($1.35) per day and paid at intervals of one month or less.

Government employees. Act applies to employment in state, provincial, and communal industries enumerated above unless specially provided for, and to work performed for a government institution under contract or concession.

Burden of payment. Entire cost of compensation rests upon employer.

Compensation for death:

If within two years after the accident, five times annual wages of deceased workman, with a maximum of 10,000 lire ($1,930), distributed to:

(*a*) Surviving consort two-fifths of indemnity if there are children; one-half of indemnity if there are dependent ascendants; three-fifths of indem-

nity if only dependent brothers or sisters; entire indemnity in absence of heirs enumerated. Children, amounts sufficient to purchase an annuity of equal amount for each child under 12 years of age, and one-half of such annuity for each child from 12 to 18 years of age. Each dependent parent or grandparent, if there are no children, annuity of equal amount for life. Dependent brothers or sisters less than 18 years of age, or incapable of performing labour by reason of a mental or physical defect, if there are no children or dependent ascendants, annuities distributed upon same principle as in case of children.

(*b*) In absence of heirs indemnity is turned into a special fund for immediate aid to injured, payment of indemnities for insolvent employers and prevention of accidents.

Compensation for disability:

(*a*) Cost of first medical and surgical treatment.

(*b*) An indemnity in case of permanent disability of six times annual earnings, but not less than 3,000 lire ($579) if totally disabled, and six times the loss of annual earning capacity if partially disabled, earnings in latter case to be considered as not less than 500 lire ($96.50).

(*c*) A daily allowance in case of temporary disability of one-half the wages of injured workman, payable for not more than three months, if totally disabled, and equal to one-half the reduction in wages occasioned by the injury, if partially disabled.

Revision of compensation. Both workman and insurer may ask for a revision of compensation within two years after accident.

Insurance. Employers must insure their employees in (*a*) The National Accident Insurance Fund, (*b*) an authorized insurance company, (*c*) an association of employers for mutual insurance against accidents, or (*d*) a private employers' insurance fund.

Guarantee of payment. Payments are guaranteed by the State.

Settlement of disputes. In cases of dispute concerning temporary disability payments, the council of prudhommes or the pretor of the locality in which the accident occurred has authority to sit in final judgment if amount involved does not exceed 200 lire ($38.60). Disputes involving larger amounts are referred for settlement to the local magistrates.

Luxemburg.

Date of enactment. April 5, 1902, in effect April 15, 1903. Sick insurance law enacted July 31, 1901.

Injuries compensated. All injuries by accident during or because of the employment, resulting in death or disability for more than three days, unless caused intentionally by the victim or during the commission of an illegal act.

Industries covered. Mines, quarries, manufactories, metallurgical establishments; gas and electric works; transportation and handling; building and engineering construction; and certain artisans' shops having at least five employees regularly and using mechanical motive power. By administrative order other establishments may become subject to the law if regarded dangerous.

Persons compensated. Workmen and those supervising and technical officials whose annual earnings are less than 3,000 francs ($579). Certain other classes of persons may be voluntarily insured.

Government employees. Act applies to government telegraph and telephone services, public works conducted by public agencies, and other governmental industrial establishments, unless other provisions are made for pensioning employees. Penal institutions are not included.

Burden of payment. Benefits and cost of treatment first thirteen weeks provided by sick benefit funds, to which employers contribute one-third and employees two-thirds, if injured person is insured against sickness; if not, because employed less than one week, by an accident insurance association, supported by contributions of employers; if not insured for other reasons, by the employer direct; all benefits and treatment after thirteen weeks paid by accident insurance association.

Compensation for death:

(*a*) Funeral expenses, one-fifteenth of the annual earnings, but not less than 40 francs ($7.72), nor more than 80 francs ($15.44).

(*b*) Pensions, not to exceed 60 per cent. of earnings of deceased, to—
Widow, 20 per cent. until death or remarriage; in the latter case a lump sum equal to 60 per cent.; same payment to a dependent widower.
Each child, 20 per cent. until 15 years of age, even if father survives, provided he abandons them, or the mother who was killed was their main support.
Dependent heirs in an ascending line, 20 per cent.
Dependent orphan grandchildren, 20 per cent until 15 years of age.
Widow and children have the preference over other heirs.

(*c*) In computing pensions only one-third of excess of annual earnings over 1,500 francs ($289.50) is considered.

Compensation for disability:

(*a*) Entire cost of medical and surgical treatment.

(*b*) For temporary or permanent total disability, from third day to end of fourth week, 50 per cent., and from fifth to end of thirteenth week, 60 per cent. of wages of persons similarly employed; after thirteen weeks, 66 2-3 per cent. of annual earnings of injured person.

(*c*) For partial disability a portion of above (depending upon degree of disability), which may be increased to full amount, as long as injured employee is without employment.

(*d*) Lump sum payments may be substituted for pensions when degree of disability is not greater than 20 per cent.

(*e*) In computing pensions only one-third of excess of annual earnings over 1,500 francs ($289.50) is considered.

Revision of compensation. Demands for change of amount of compensation may be made within three years.

Insurance. Payments are met by mutual accident insurance association of employers, in which all employees must be insured at expense of employers.

Guarantee of payment. Insurance association conducted under State supervision.

Settlement of disputes. Appeals from the decisions of the association may be carried within forty days to a justice of the peace, who is required to invite two delegates, representing employer and employee, to assist in an advisory capacity. Further appeals may be taken to the higher courts.

MANITOBA.

Date of enactment. March 16, 1910, in effect January 1, 1911.

Injuries compensated. Injuries by accident arising out of and in the course of the employment which caused death, or disabled workman for at least two weeks from earning full wages at the work at which he was employed. Compensation is not paid when the injury is attributable to the workman's drunkenness, nor if attributable to his serious or wilful misconduct and only partial incapacity results. Compensation is paid in every case where injuries result in permanent disability or death.

Industries covered. Any employment in which five or more workmen are employed.

Persons compensated. Workmen and apprentices, and government or other clerks whose remuneration is less than $1,200 a year.

Compensation to dependants is limited to those residing within the province at the time of the accident and during the period of payment.

Burden of payment. Is upon the employer.

Compensation for death:

(*a*) To those wholly dependent on earnings of deceased *for the necessaries of life,* a sum not exceeding $1,500.

(*b*) To those in part dependent a sum not exceeding $1,500, to be agreed upon or fixed by arbitration.

(*c*) If no dependants, the reasonable expenses of medical attendance and burial, not to exceed $100.

Compensation for incapacity. A weekly payment not exceeding 50 per cent. of adult workman's average weekly earnings with the same employer and not more than $10 per week; to apprentices up to $6 per week, payable after the first two weeks following the injury. There are two provisoes: (1) That if the injured workman is not a journeyman working at his own trade, he shall be entitled only to 25 per cent. diminution which the accident caused to his wage-earning capacity for the first month, 40 per cent. for the second month, and thereafter 50 per cent.; and (2) that the total amount payable shall not exceed $1,500.

Revision of compensation. An order of the court or an award as to the sums payable to dependants may be varied, and weekly payments may be revised at the request of either the employer or of the workman.

Insurance. Employers may make contracts with workmen for substitution of a scheme of compensation, benefit or insurance in place of the provisions of the act, if the Attorney-General certifies that the scheme is not less favourable to the workmen and their dependants than the provisions of the act, and a majority of the workmen to whom the scheme is applicable are in favour of the scheme. A certificate is given for a period of not less than five years, and under it employers are liable only in accordance with the scheme.

Guarantee of payment. If the employer has entered into a contract with insurers in respect of liability under the act to any workman, the rights of the employer, in case he becomes bankrupt, are transferred to and vested in the workman. In case of the employer's assignment, or of the winding up of a company, the compensation due before the date of the assignment or of the commencement of the winding-up, is, up to $500 in any individual case, classed as a preferred claim.

Settlement of disputes. Disputes are settled by arbitration; either by an arbitration committee representing employer and workman, or by a single arbitrator,

or, in the absence of agreement, by the court. The Attorney-General may confer upon an arbitration committee any or all of the powers conferred by the act exclusively on courts.

New Brunswick.

Is more a liability than a compensation act.

"Workman" is narrowly defined.

Dependants unless residents in Canada at the time of the death of the workman have no claim.

The act is of limited application.

Newfoundland.

Date of enactment. February 18, 1908, in effect July 1, 1908.

Injuries compensated. Injuries by accident arising out of and in the course of the employment which disable a workman for at least one week from earning full wages at the work at which he was employed, unless the injury is attributable to the serious or wilful misconduct of the injured workman.

Industries covered. Railways, factories, mines, quarries, engineering work, employment in or about any building which exceeds twenty feet in height and is being constructed or repaired by means of a scaffolding, or being demolished, or on which machinery driven by steam, water, or other mechanical power is being used for the purpose of its construction, repair or demolition.

Persons compensated. Every person who is engaged in manual labor or otherwise.

Government workmen. The act applies to workmen employed under the Crown, to whom the act would apply if the employer were a private person.

Burden of payment. Entire cost of compensation rests upon the employer.

Compensation for death:

(*a*) To those dependants wholly dependent upon the workman's earnings a sum equal to the workman's earnings in the employment of the same employer during the three years next preceding the injury, or the sum of $750, whichever of those sums is the larger, but not exceeding $1,500, or one hundred and fifty-six times the average weekly earnings of the workman during the period of his actual employment.

(*b*) To dependants partially dependent upon the workman's earnings, a sum equal to or less than the above sum, as may be agreed upon or as may be determined to be reasonable and proportionate to the injury to the said dependants.

(*c*) If no dependants, the reasonable expenses of his medical attendance and burial, not exceeding $50.

Compensation for disability. Where total or partial incapacity for work results from the injury, a weekly payment during the incapacity not exceeding 50 per cent. of the workman's average weekly earnings during the previous twelve months, if he has been so long employed, but if not then for any less period during which he has been in the employment of the same employer, such weekly payments not to exceed $5.

If the incapacity lasts less than two weeks no compensation is payable in respect of the first week.

A lump sum may be substituted for the weekly payments, after six months, on the application of the employer, the amount to be settled, in default of agreement, by the court or a judge.

Revision of compensation. Weekly payments may be reviewed at the request of either the employer or the workman, and the amount of payment shall, in default of agreement, be settled by the court or a judge.

Insurance. Insurance is not obligatory. Employers may contract with their workmen for the substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act, if the government engineer certifies that the scheme provides scales of compensation not less favourable to the workman and their dependants than the corresponding scales in the act, and if the scheme provides for contributions by the workmen, that the scheme confers benefits at least equivalent to those contributions in addition to the benefits to which workmen would have been entitled under the act, and that a majority of the workmen are in favour of the scheme.

Guarantee of payment. There is no guarantee of payment. When an employer becomes liable under the act to pay compensation, and is entitled to any sum from insurers on account of the amount due to a workman under such liability, then in the event of the employer becoming insolvent, or making an arrangement or composition with his creditors, the workman shall be subrogated to the rights of the employer against the insurers.

The workman has also in respect of any compensation due a preferential claim against an insolvent employer.

Settlement of disputes. All proceedings for the recovery of compensation for an injury are taken by action in the Supreme Court.

New South Wales.

Date of enactment. November 5, 1900, in effect January 1, 1901. Amended on December 28, 1901. Scale of compensation increased by governor on July 28, 1905, in accordance with power given by the act.

Injuries compensated. Injuries caused primarily by accident while at work and resulting in death or incapacity to attend to ordinary occupation.

Industries covered. Any mine, or works adjoining such mine, in or about which (including the works) 15 or more persons are employed.

Persons compensated. Persons employed in or about a mine, or works adjoining.

Government employees. No mention of government employees is made in the law.

Burden of payments. Distributed equally between employees on one hand and employers and State on the other. Workmen pay 4½ pence (9 cents) per week, employers pay 50 per cent of workmen's contributions, and State grants subsidy of an amount equal to employer's contribution.

Compensation for death:

(*a*) Funeral benefit of £12 ($58.40).

(*b*) Weekly pensions: To widow, 10 shillings ($2.43), until death or remarriage, and for each child under 14 years, additional 3 shillings (73 cents); to motherless children, 10 shillings ($2.43) until no child is below 14 years.

(*c*) If deceased was unmarried, weekly pensions of 10 shillings ($2.43) to dependent father and mother, each, and additional 3 shillings (73 cents) for each child under 14 years of dependent mother.

(*d*) In absence of dependent parents, 10 shillings per week ($2.43) to dependent sister or sisters (sharing equally) and additional 3 shillings (73 cents) for each child under 14 years.

Compensation for disability:

(*a*) Weekly allowance of 15 shillings ($3.65) until able to resume work.

(*b*) In case of permanent total disability, additional 3 shillings (73 cents) weekly for each child under 14.

Revision of Compensation. Made under rules promulgated by a board consisting of members representing workmen, employers, and State.

Insurance. Payments are met by miners' accident relief fund administered by the board above mentioned.

Guarantee of payment. Governor must revise scale of benefits to correspond with financial condition of fund.

Settlement of disputes. Controversies are settled by the board which administers the fund, except that fines and arrears of contributions may be collected through regular courts.

New Zealand.

Date of enactment. October 18, 1900, to take effect at a date fixed by the governor by order in council. Amended October 3, 1902; November 23, 1903; November 8, 1904; October 31, 1905, October 29, 1906; Act 1908; No. 34, Oct. 28, 1911.

Injuries compensated. All injuries to workmen arising out of and in the course of the employment causing death or disability for at least one week, except when due to serious and wilful misconduct of the workman injured.

Industries covered. Industrial, commercial, manufacturing, building, agricultural, pastoral, mining, quarrying, engineering, and hazardous work carried on by or on behalf of the employer as a part of his trade or business.

Persons compensated. All persons under contract with an employer.

Government employees. Act applies to work carried on by or on behalf of the government or any local authority if it would, in case of a private employer, be an employment to which the act applies.

Burden of payment. Entire cost of compensation rests upon employer; but if there are contractors, then on such contractors and the principal, jointly and severally.

Compensation for death:

(*a*) A sum equal to three years' earnings, but not less than £200 ($973.30) nor more than £400 ($1,946.60), to those wholly dependent upon earnings of deceased.

(*b*) A sum less than above amount if dependants were partly dependent upon deceased, to be agreed upon by the parties or fixed by a magistrate or by the arbitration court.

(*c*) Reasonable expenses of medical attendance and burial, not exceeding £30 ($146.00), in case deceased leaves no dependants.

Compensation for disability:

(*a*) A weekly payment during disability not exceeding 50 per cent of employee's average weekly earnings during the previous twelve months, but not to exceed £2 ($9.73) nor to fall below £1 ($4.87) where employee's ordinary rate of pay at the time of the accident was not less than 30 shillings ($7.30) per week. Total liability of employer is limited to £300 ($1,459.95). No payment is made for first week if disability does not continue for a longer period than two weeks.

(*b*) A lump sum may be substituted for weekly payments for permanent total or partial disability, to be agreed on by the parties or, in default of agreement, determined by the court of arbitration.

Revision of compensation. Weekly payments may be revised at request of either party.

Insurance. Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the Act if the scheme is shown to be not less favourable to the general body of employees and their dependants than the provisions of the act. In such case the employer is liable only in accordance with the scheme.

Guarantee of payment. When an employer becomes liable under this act to pay compensation, and is entitled to any sum from insurers on account of the amount due to a workman under such liability, then in the event of his becoming insolvent such workman has a first claim upon this sum. Compensation for injuries sustained in the course of employment in or about a mine, factory, building, or vessel is deemed a charge upon the employer's interest in such property and has priority over all charges other than those lawfully existing at the time of the commencement of the act.

Settlement of disputes. Disputes arising under the act are settled by the Court of Arbitration under the Industrial Arbitration Act. Where claim for compensation does not exceed £200 ($973.30) proceedings may be instituted before a magistrate whose decision is final, except that in cases where amount involved does not exceed £50 ($243.33) either party may, with the consent of the magistrate, and in cases where the claim exceeds £50 ($243.33), without such consent, appeal from his decision on any point of law.

Norway.

Date of enactment. July 23, 1894, in effect July 1, 1895.

Injuries compensated. All injuries by industrial accidents, causing death, or disability for more than four weeks, or requiring treatment after that period, unless intentionally brought about by the injured person.

Industries covered. Practically all factories and workshops using other than hand power; mines and quarries; the handling of ice, explosives or inflammable wares; building and engineering construction, electric work, transportation, salvage and diving, chimney sweeping, and fire extinguishing. Employees in other industries may avail themselves of this insurance system.

Persons compensated. All workmen and overseers.

Government employees. Act covers employees in government or communal service, when engaged in any of the industries enumerated above, unless at least equal compensation is provided by special regulation.

Burden of payment. Cost of compensation rests upon employer.

Compensation in case of death:

(*a*) Funeral benefit of 50 crowns ($13.40).

(*b*) Pensions to heirs not exceeding 50 per cent. of earnings to be distributed to:—

Widow, 20 per cent. of earnings until death or remarriage; in the latter case a lump sum equal to three annual payments; or dependent widower, if incapable of work, 20 per cent. of annual earnings of deceased while his disability lasts.

Each child, 15 per cent. of annual earnings till age of 15 years, if one parent survives, or 20 per cent. if neither survives; 15 per cent. for each parent to each child, when both parents have died as result of injuries.

Dependent relatives in ascending line. if there is a residue after providing for above-mentioned heirs, a pension of 20 per cent. of earnings until death or cessation of need, to be divided equally; but living parents exclude grandparents from participation.

(*c*) In computing pensions, the excess of annual earnings over 1,200 crowns ($321.60) is not considered.

(*d*) Pension payments are in addition to prior allowances granted for disability.

Compensation for disability:

(*a*) Free medical and surgical treatment, or cost of same, after four weeks.

(*b*) If employee is totally disabled for more than four weeks an allowance of 60 per cent. of the earnings, but not less than 0.50 crown (13 cents per diem or 150 crowns ($40.20) per annum; and a proportionate allowance in case of partial disability.

(*c*) If injured employee is forced to stay in a hospital, dependants receive allowances during that time equal to the pensions granted in cases of death.

(*d*) If injured employee is not a member of a sick insurance fund he is entitled to receive from employer directly sick benefits and free medical treatment from first day of injury.

(*e*) In computing allowances the excess of annual earnings over 1,200 crowns ($321.60) is not considered.

Revision of compensation. Compensation is subject to revision upon demand of either the beneficiary or the insurance office.

Insurance. A state central insurance office is established for the entire Kingdom, in which all employees subject to the law must be insured by employer, unless he is, for special reasons, relieved by royal order from the obligation of insurance.

Guarantee of payment. Insurance office is guaranteed by the State.

Settlement of disputes. Appeals from decisions of insurance office may be entered within six weeks with the special insurance commission.

Nova Scotia.

Date of enactment. April 22, 1910, in effect February 1, 1911.

Injuries compensated. All injuries by accident to workmen arising out of and in the course of employment causing disability for over two weeks, unless attributable to the serious and wilful misconduct of drunkenness of the workman.

Industries covered. Railways, factories, mines, quarries, engineering work, loading and unloading vessels, building using scaffolding or mechanical motive power, employing not less than ten workmen.

Persons compensated. Workmen and clerks regularly employed whose remuneration does not exceed $1,000 a year. Named companies which have relief societies are exempted from the operation of the act. Employees in agriculture, the fisheries, shipbuilding, lumbering and sawmills are excluded.

Government employees. Are within the act, if the employment itself is covered by the Act.

Burden of payment. Is upon employer.

Compenastion for death:

(*a*) To dependants residing in Canada wholly dependent upon workman's earnings at the time of his death, a sum equal to three years' earnings, not less than $1,000, nor more than $1,500.

(*b*) To partial dependants, not more than above amount to be agreed upon or fixed by arbitration.

(*c*) If no dependants reasonable expenses of medical attendance and burial not exceeding $200.

Compensation for disability:

A weekly payment after second week not exceeding 50 per cent. of average weekly earnings; not more than $7 a week, nor in all than $1,500.

A lump sum to be settled by arbitration may, on application of employer, be substituted for weekly payments.

Revision of compensation. May be had at request of either employer or workman.

Insurance. Employers may make contracts with workmen for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act, if the Lieutenant-Governor-in-Council certifies that the scheme is not less favourable to the general body of workmen and dependants than the provisions of the act. The employers are then liable only in accordance with the scheme.

Guarantee of payment. If employer is entitled to any sum from insurers in respect of any liability under the act to any workman, in case employer becomes bankrupt, or makes a compromise or arrangement with creditors, the workman shall be subrogated to the rights of the employer against the insurers. (S. 10.)

Settlement of disputes. Disputes are settled, (*a*) by an arbitration committee representatives of employer and workman; or, (*b*) by a single arbitrator agreed upon; or (*c*) by an arbitrator appointed by the County Court judge.

Quebec.

Date of enactment. May 29th, 1909, in effect January 1, 1910.

Injuries compensated. All injuries happening to workmen by reason of or in the course of their work causing death or disability lasting over seven days. Injuries intentionally caused by the person injured are not compensated.

Industries covered. Building, manufacturing, transportation, engineering and construction work, mining, quarrying stone; wood and coal yards; any industrial enterprise using machinery operated by power. Agriculture and sailing vessels are excluded.

Persons compensated. Workmen, apprentices, and employees earning not more than $1,000 per annum. Foreign workmen or their representatives are compensated only if and so long as they reside in Canada.

Government employees. Government employees are not mentioned in the act.

Burden of payment. The entire expense rests upon the employer.

Compensation for death:

(*a*) Medical and funeral expenses not in excess of $25, unless same are provided by an association of which the deceased was a member.

(*b*) Four times average yearly wages, but not less than $1,000 nor more than $2,000, payable to surviving consort, to children under 16 years of age, and dependent ascendants; shares to be agreed upon or determined by court.

All amounts may be decreased or increased by court on account of inexcusable fault of employee or employer.

Payments made for disability before death are deducted.

Compensation for disability:

(*a*) For permanent total disability, a pension equal to 50 per cent. of the yearly wages (including the maximum and minimum amounts).

(*b*) For permanent partial incapacity, a pension equal to 50 per cent. of the amount by which the wages have been reduced because of the injury.

(*c*) For temporary incapacity lasting over seven days, compensation equal to one-half the daily earnings received at the time of the accident, beginning with the eighth day.

(*d*) In computing pensions only one-fourth the excess of the annual earnings between $600 and $1,000 is considered. The capital of any pension shall not exceed $2,000, unless higher, because of accidents due to inexcusable fault of the employer.

Revision of compensation. Demands for change of amount of compensation may be made within four years.

Insurance. No reference concerning the insurance of risks under the law is contained in the act, except as to the payment of pensions due, which may be transferred to insurance companies. No release from liability is obtained by the employer by such transfer.

Guarantee of payment. Claims for compensation or pensions form a lien on the real and personal property of the employer so long as they remain unpaid.

Settlement of disputes. Superior and Circuit Courts have jurisdiction over all disputes arising under this act. All proceedings are summary, no trial by jury being allowed.

Queensland.

Date of enactment. December 20, 1905, in effect March 31, 1906.

Injuries compensated. All injuries by accident, arising out of and in the course of the employment, which cause death or disable a workman for at least two weeks from earning full wages at the work at which he was employed, except when the injury is directly attributable to his serious and wilful misconduct or when it occurs while proceeding to or from his place of work.

Industries covered. Industrial, commercial, manufacturing, building, agricultural, pastoral, mining, quarrying, engineering, or hazardous work carried on by or on behalf of the employer as a part of his trade or business.

Persons compensated. All persons under contract with an employer.

Government employees. Act applies to any work carried on by or on behalf of the government or any local authority if it would, in case of a private employer, be an employment to which the act applies.

Burden of payment. Entire cost of compensation rests upon employer.

Compensation for death:

(*a*) A sum equal to three years' earnings, but not less than £200 ($973.30) nor more than £400 ($1,946.60), to those wholly dependent upon earnings of deceased; but aged and infirm employees may agree in advance to accept a reduced amount.

(*b*) A sum less than above if heirs are only partly dependent.

(*c*) Reasonable expenses of medical attendance and burial, not exceeding £30 ($146), if deceased leaves no dependants.

Compensation for disability:

(*a*) A weekly payment during disability after second week, not exceeding 50 per cent. of employee's average weekly earnings during the previous twelve months, such weekly payments not to exceed £1 ($4.87), and total liability not to exceed £400 ($1,946.60); except that aged and infirm employees may agree in advance to accept a reduced amount.

(*b*) A weekly payment during partial disability after second week, not exceeding one-half of difference between the employee's average weekly earnings before the accident and the average weekly amount which he is earning or able to earn after injury.

(*c*) Minors may be allowed full earnings during incapacity, not exceeding 10 shillings ($2.43) weekly.

(*d*) A lump sum may be substituted for weekly payments after three months, on application of employer, the amount to be agreed upon or, in default of agreement, to be determined by a police magistrate.

Revision of compensation. Weekly payments may be revised by a police magistrate at request of either party.

Insurance. Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act if the scheme is officially certified to be not less favourable to the employees and their dependants than the provisions of the act. In such case the employer is liable only in accordance with the scheme.

Guarantee of payment. When an employer becomes liable under the act to pay compensation, and is entitled to any sum from insurers on account of the amount due to a worker under such liability, then in the event of his becoming insolvent, such workman has a first claim upon this sum for the amount so due.

Settlement of disputes. Disputes arising under the act are heard and determined by a police magistrate, whose decision is final, except that either party may appeal from this decision on any point of law with the latter's leave if the claim does not exceed £50 ($243.33), or without his leave if it exceeds that amount.

Russia.

Date of enactment. June 2, (15), 1903, in effect January 1 (14), 1904.

Injuries compensated. All injuries by accidents occasioned by or on account of the work and causing death or disability for more than three days, unless brought on intentionally by the victim or due to gross imprudence.

Industries covered. Metallurgical and mining establishments and factories and workshops using other than hand power, but exclusive of shops of private railroads and steamship companies and certain rural industrial establishments.

Persons compensated. Workmen and those technical officials whose annual earnings do not exceed 1,500 rubles ($772.50).

Government employees. Act applies to mining, metallurgical and manufacturing establishments of municipal and Zemstvo governments, but not to national government employees, for whom special regulations exist.

Burden of payment. Entire burden of payment rests upon employer.

Compensation for death:

(*a*) Funeral expenses not exceeding 30 rubles ($15.45) for an adult and 15 rubles ($7.73) for a child under 15 years of age.

(*b*) Pensions to dependent heirs not exceeding 66 2-3 per cent. of annual earnings of victim, distributed to:

Widow, 33 1-3 per cent. until death or remarriage; in the latter case a lump sum equal to three annual payments.

Each child until age of 15 years 16 2-3 per cent. if one parent survives and 25 per cent. if neither parent survives.

Dependent heirs in ascending line. 16 2-3 per cent. Each dependent orphan brother and sister until 15 years of age, 16 2-3 per cent.

Widow and children take precedence over other dependent heirs, who share the remainder in equal parts.

(*c*) Pension may, by mutual consent of employer and beneficiary, be replaced by single payment of ten times amount of annual pension and, in case of children, pension multiplied by the number of years remaining for pension payments, but not exceeding ten.

Compensation for disability:

(*a*) Free medical and surgical treatment or reimbursement of expense of same.

(*b*) If permanently disabled, a pension of 66 2-3 per cent. of annual earnings of victim in case of total disability, and a pension proportionate to degree of incapacity in case of partial disability, to be paid from time when degree of permanent disability was determined; if amount of pension exceeds that of previous allowance for temporary disability, difference between the two during the period of disability is paid to permanently injured employee.

(*c*) Pension may, by mutual consent of employer and beneficiary, be replaced by a single payment of ten times amount of annual pension.

(*d*) If temporarily disabled, an allowance of 50 per cent. of actual wages of victim from day of accident until complete recovery from disability or the determining of degree of permanent disability.

Revision of compensation. Demands for revision of payments or to secure a pension previously refused may be made by either party within three years.

Insurance. Employers may transfer burden of payment of compensation by insuring their employees in authorized insurance companies, or societies.

Guarantee of payment. On retiring from business employer must guarantee payments by insurance or by deposit with a State bank. In case of insolvency, payments constitute a preferred claim.

Settlement of disputes. Disputes may be carried into courts as other civil cases. Such cases are exempt from court fees, the documents are free from stamp tax, and attorney's fees are fixed by law.

Saskatchewan.

Date of enactment. March 23, 1911; in effect November 1, 1911.

Injuries compensated. Personal injuries by accident arising out of and in the course of the employment unless the injury does not disable the workman for at least one week from earning wages at the work at which he was employed.

Industries covered. Railways, factories, mines, quarries, engineering work and building work, with a special exception excluding employments in agriculture.

Persons compensated. Persons employed in the industry.

Government employees Are not mentioned in the act.

Burden of payment. Entire cost of compensation rests upon the employer.

Compensation. Not to exceed estimated earnings during preceding three years of person in same grade as the injured employee or $1,800, whichever is the larger, but not to exceed in any case $2,000.

Insurance: There is no provision as to insurance.

Guarantee of payment. No security except that in case of insolvency the employee is subrogated to the right of the employer against the insurer and the compensation in the case of an assignment or winding up is to the extent of $500 given priority over other debts.

Settlement of disputes. Compensation is recoverable by action in district court.

South Australia

Date of enactment. December 5, 1900, in effect not earlier than June 1, 1901.

Injuries compensated. All injuries to workmen arising out of and in the course of the employment causing death or disability for at least one week, except when due to the serious and wilful misconduct of the workman injured.

Industries covered. Railways, waterworks, tramways, electric lighting works, factories, mines, quarries, engineering and building work, employments declared by a proclamation of the governor upon addresses from both houses of parliament to be dangerous or injurious to health or dangerous to life or limb, and agricultural pursuits where mechanical motive power is used.

Persons compensated. All persons engaged in manual labour or otherwise.

Government employees. Act applies to civilian persons employed under the Crown to whom it would apply if the employer were a private person.

Burden of payment. Entire cost of compensation rests upon employer.

Compensation for death:

(*a*) A sum equal to three years' earnings, but not less than £150 ($729.98) nor more than £300 ($1,459.95), to those wholly dependent upon earnings of deceased.

(*b*) A sum less than above amount if dependants were partly dependent upon deceased, to be agreed upon by the parties or fixed by arbitration.

(*c*) Reasonable expenses of medical attendance and burial not exceeding £50 ($243.33), if deceased leaves no dependants.

Compensation for disability:

(*a*) A weekly payment during disability after first week, not exceeding 50 per cent. of employee's average weekly earnings during the previous twelve months, such weekly payments not to exceed £1 ($4.87) nor, in case of total incapacity, to be less than 7s. 6d. ($1.83) per week, and total liability not to exceed £300 ($1,459.95).

(*b*) A weekly payment during partial disability after first week to be fixed with regard to difference between employee's average weekly earnings before the accident and average weekly amount which he is earning or able to earn after injury.

(*c*) A lump sum not exceeding £300 ($1,459.95) may be substituted for weekly payments, after six months, on application of either party, the amount to be settled by arbitration under the act in default of agreement.

Revision of compensation. Weekly payments may be revised at request of either party.

Insurance. Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act, if the public actuary certifies that the scheme is on the whole not less favourable to general body of employees and their dependants than the provisions of the act. In such case employer is liable only in accordance with the scheme.

Guarantee of payment. When an employer become liable under the act to pay compensation, and is entitled to any sum from insurers on account of the amount due to a workman under such liability, that in the event of his becoming insolvent such workman has a first claim upon this sum, and any special magistrate may direct its payment into the savings bank to be applied to payment of compensations due.

Settlement of disputes. Disputes arising under the act are settled by the arbitration of existing committees representative of employers and employees, or, if either party objects, by a single arbitrator agreed on by the parties, or, in absence of agreement, by special magistrate. An arbitrator appointed by the magistrate has all the powers of a local court.

Spain.

Date of enactment. January 30, 1900, in effect July 28, 1900.

Injuries compensated. All injuries by accidents to employees in the course of and by reason of the employment causing death or disability. Compensation may be reduced if injured person was engaged in an illegal act.

Industries covered. Manufacturing, mines, quarries, metallurgical establishments, construction work, industries injurious to health, transportation, gas and electric works, street cleaning, theatres, and agricultural and forestry establishments using power machinery.

Persons compensated. Workmen performing manual labour, including helpers and apprentices.

Government employees. Act applies to employees of state factories and other government establishments, to labor accidents in war and naval departments, and to establishments of provincial and communal governments.

Burden of payment. Entire cost of compensation rests upon employer.

Compensation for death:

In addition to any prior benefits paid for disability:—

(*a*) Funeral expenses not exceeding 100 pesetas ($19.30).

(*b*) A lump sum equal to two years' earnings, if widow and children or dependent orphan grandchildren under 16 years survive; eighteen months' earnings if only children or orphan grandchildren survive; one year's earnings if only widow survives; ten months' earnings to dependent parents or grandparents over 60 years of age, in absence of widow or children, if two or more survive; seven months' earnings if only one parent or grandparent survives.

(*c*) For these lump sum payments, by mutual consent, the following pensions may be substituted: 40 per cent. of annual earnings when widow and children or grandchildren survive: 20 per cent. of annual earnings when only widow survives; 10 per cent. to each dependent parent or grandparent over 60 years of age, when no widow or children survive, but not over 30 per cent. in the aggregate: compensation to widow ceases on her remarriage, and to children on the attaining the age of 16 years.

(*d*) In these cases, the daily earnings to be considered as not less than 150 pesetas (29 cents).

(*e*) All of these compensations are increased by 50 per cent. if the establishment is lacking in the required safety provisions.

Compensation for disability:

(*a*) Free medical and surgical treatment during disability.

(*b*) Fifty per cent. of daily earnings, including Sundays and holidays, from day of injury to day of recovery from disability, but not over one year, after which case is treated as one of permanent disability.

(*c*) In case of permanent disability, in addition to the foregoing, a sum equal to two years' earnings for total disability.

Eighteen months' earnings, if total disability extends only to former trade.

One year's earnings in cases of partial permanent disability for usual employment, unless the employer agrees to employ injured workman at some other work at old rate of wages.

(*d*) In these cases, the daily earnings to be considered as not less than 150 pesetas (29 cents).

(*e*) Compensations are increased by 50 per cent. if the establishment is lacking in the required safety provisions.

Revision of compensation. No special provision is made in the law.

Insurance. Employers may contract with authorized insurance companies to assume obligations imposed by law.

Guarantee of payment. No special provision is made in the law.

Settlement of disputes. Disputes concerning compensation under the law may be carried to special permanent labour tribunals consisting of representatives of the State, employers, and employees.

Sweden.

Date of enactment. Approved July 5, 1901, in effect January 1, 1903; amended June 3, 1904.

Injuries compensated. Injuries by accidents to workmen resulting from the employment, and causing death or disability for more than sixty days, unless due to the wilful act or gross negligence of the victim or to the wilful act of a third person who has neither the supervision nor the direction of the work.

Industries covered. Practically all establishments engaged in forestry work, mining, quarrying, turf and ice cutting and handling, manufacturing, chimney sweeping, rafting, railway and tramway service, handling goods, building trades, conduit, road and other construction work, and electricity, and gas, and water distribution. Employers in other industries may insure their employees in the State Insurance Institute and thereby be placed under provisions of the act. Employees in other industries may secure the protection of the act by insuring themselves in the State Insurance Institute.

Persons compensated. Workmen and foremen.

Government employees. Act applies to employees in the state and communal services when engaged in any of the industries enumerated above.

Burden of payment. Entire cost of compensation rests upon employer.

Compensation for death:

When death results from the injury within two years.

(*a*) Funeral benefit of 60 crowns ($16.08).

(*b*) Annual pensions not exceeding in the aggregate 300 crowns ($80.40), to be distributed to widow, until remarriage 120 crowns ($32.16); each child under 15 years of age 60 crowns ($16.08).

Compensation for disability:

(*a*) If permanently disabled, annual pension of 300 crowns ($80.40); in case of total disability, and a smaller sum corresponding to loss of earning power in case of partial disability, pension to begin with sixty-first day of disability, or later if permanent character of the disability was not then established.

(*b*) If temporarily disabled for more than sixty days, 1 crown (27 cents) per day beginning with sixty-first day.

Revision of compensation. Suit may be brought in a court of first instance by injured employee for a revision of compensation within two years from the date of the fixing of the same.

Insurance. If an injured person receives an allowance or pension from an organization which is supported entirely or in greater part by the employer, or if the victim is insured in a private organization by his employer, the amounts received from such a source may be deducted from payments required of employer under the act. Employers may transfer burden of payment of compensation by insuring in the State Insurance Institute, created for this purpose by the act, or in individual cases purchase annuities for pensioners from this institution. Other arrangements may be made between employers and employees if the State Insurance Institute finds upon examination that they are not unfavourable to the employees.

Guarantee of payment. An employer may be required to furnish adequate security for the payment of the pension to cover the contingency of his neglecting

to pay the same, of his retiring from business or leaving the country, or of his becoming insolvent. If he fails to furnish security he may be required to pay a lump sum equal to the capital value of the pension plus the payments and interest due, which amount, in the case of an injured employee, must be invested in the purchase of an annuity from the State Insurance Institute.

Settlement of disputes. Disputes may be settled either by arbitration or by bringing suit in a court of first instance. The demand for arbitration must be made or the suit brought within two years after the accident or in case of fatal accidents within two years after the death of the victim. If the action is against the State Insurance Institute, one year more is allowed.

TRANSVAAL.

Date of enactment. August 20, 1907, in effect April 1, 1908.

Injuries compensated. Injuries by accident arising out of and in the course of the employment which cause the workman's death or necessitate his absence from work for over one week. Compensation is not paid when injury is due to serious and wilful misconduct.

Industries covered. Employment at or about any trade, industry, business, or public undertaking, including agriculture, but excluding domestic service.

Persons compensated. Any white person regularly employed for the purposes of the employer's trade or business whose annual earnings do not exceed £500 ($2,433.25), but exclusive of home workers and subcontractors.

Government employees. All civil government employees are covered by this act if employed in establishments or undertakings to which the law applies, provided that when other pension provisions have been made the injured employee or his surviving dependants have the right to choose between the two methods of compensation.

Burden of payment. Entire cost of compensation rests upon employer.

Compensation for death:

(*a*) A sum equal to two years' wages, but not more than £500 ($2,433.25), to those dependent upon earnings of the deceased, to be distributed among the dependants, either by agreement or by order of the local courts.

(*b*) Temporary payments previously made for over three months shall be deducted from the above amounts.

(*c*) If deceased left no dependants, reasonable expenses of medical attendance and burial, not exceeding £60 ($291.99).

Compensation for disability:

(*a*) A weekly payment during disability of 50 per cent. of the wages at the time of the injury.

(*b*) In case of total permanent disability, an amount equal to three years' wages, minus the amount paid in weekly compensation, but not over £750 ($3,649.88).

(*c*) In case of partial disability, an amount equal to probable loss of earning power for three years, minus the amount paid out in weekly compensation, but not over £375 ($1,824.94).

(*d*) In case of minors suffering total permanent disability the court may increase the compensation to £300 ($1,459.95) if three years' wages are less than this amount, and if suffering from partial permanent disability the court may increase the compensation to £150 ($729.98).

Revision of compensation. Employer may apply for revision or setting aside of order to pay weekly compensation on the ground of recovery of the employee or his wilful retardation of recovery, or refusal to undergo medical examinations, or of lack of notice of accident, or subsequent proof of serious and wilful misconduct. Injured employee has a right to make a new application if compensation is denied and injury subsequently proves more serious than expected.

Insurance. Right of insurance against the obligations of this act is not regulated. No release from liability is effected by such insurance.

Settlement of disputes. Orders for granting benefits are given by local magistrates, after holding an inquiry. Appeals may be had to the magistrate himself and from him to the supreme court.

Western Australia.

Date of enactment. February 19, 1902, in effect on a date fixed by the governor by order in council.

Injuries compensated. All injuries caused to a workman arising out of and in the course of the employment causing death or disability for at least two weeks, except when due to serious and wilful misconduct of the workman injured.

Industries covered. Railways, waterworks, tramways, electric light plants, factories, mines, quarries, engineering and building work, and employments declared by a proclamation of the governor, issued pursuant to addresses from both houses of parliament, to be dangerous or injurious to health or dangerous to life or limb.

Persons compensated. All persons engaged under contract in any employment.

Government employees. Act applies to all persons employed under the Crown to whom it would apply if employer were a private person.

Burden of payment. Entire cost of compensation rests upon employer.

Compensation for death:

(*a*) A sum equal to three years' earnings, but not less than £200 ($973.30) nor more than £400 ($1,946.60), to those wholly dependent upon earnings of deceased.

(*b*) A sum less than above amount if dependants were partly dependent upon deceased, to be agreed upon by the parties or fixed by local court.

(*c*) Reasonable expenses of medical attendance and burial not to exceed £100 ($486.65), if deceased leaves no dependants.

Compensation for disability:

(*a*) A weekly payment during disability after second week, not exceeding 50 per cent. of injured person's average weekly earnings during the previous twelve months, such weekly payment not to exceed £2 ($9.73) and total liability not to exceed £300 ($1,459.95).

(*b*) In case of partial disability, regard is to be had to the difference between average weekly earnings before and after the accident, and to any payment other than wages made by employer on account of the injury.

(*c*) A lump sum may be substituted for weekly payments, after six months, on the application of the employer, the amount to be determined by the court in default of agreement.

Revision of compensation. Weekly payments may be revised by the court at request of either party.

Insurance. Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act, if the registrar of friendly societies certifies that the scheme is on the whole not less favourable to the general body of employees and their dependants than the provisions of the act. In such case employer is liable only in accordance with this scheme.

Guarantee of payment. When an employer becomes liable under the act to pay compensation, and is entitled to any sum from insurers on account of the amount due to a workman under such liability, then in the event of his becoming insolvent, such workman has a first charge upon this sum for the amount so due. Compensation for injuries sustained in the course of employment in or about a mine, factory, building, or vessel is deemed a charge on the employer's interest in such property.

Settlement of disputes. Disputes arising under the act are settled by the local court of the district in which the injury is received.

SCHEDULE III

ACTS PASSED BY STATE LEGISLATURES IN THE UNITED STATES OF AMERICA.*

In CALIFORNIA the common law defences of assumption of risk and fellow-servant rule are abolished in all actions to recover damages for personal injury where recovery is sought on the ground of want of ordinary or reasonable care on the part of the employer. Neither is contributory negligence of the employee a bar to recovery when it was slight compared to the negligence of the employer, but damages may be diminished in proportion to the amount of negligence attributable to the employee. In place of recovery through the courts, the act provides a schedule of compensation payable to injured employees regardless of the question of negligence. The law applies to all employers, including the state itself and each county, city, town, village and school district. Employees of the state and its political divisions are subject to the compensation plan without choice. All other employers and employees have the right to elect to become subject or not subject. Such election is made by employers by filing a statement with the industrial accident board, which binds him to the compensation plan for one year, and thereafter renews automatically unless the employer files a notice at least sixty days before the expiration of any year to the effect that he withdraws his election to be subject to the act. Employees are deemed to be bound by the act unless they give notice to the contrary in writing.

The compensation paid to injured employees includes necessary medical expenses for ninety days after the injury, but not to exceed $100, and in addition an indemnity based upon the earning power of the employee. In case the injury results in death, if the deceased leaves persons wholly dependent upon him, the maximum amount of indemnity to be paid to such dependants shall equal three

*This table is taken from the Corporation Trust Company Journal, No. 27, 1911, and is substantially accurate.

times the average annual earnings of the employee, but not less than $1,000 nor more than $5,000. In case the deceased employee leaves only partly dependent persons or no dependants, the indemnity is reduced accordingly. In case of total disability, 65 per cent. of the average weekly earnings of the employee are paid during the period of such disability, which amount is increased to 100 per cent. of his earnings during such period, if any, in which his injury renders him so helpless as to require the assistance of a nurse. The total sum of payments, however, is not to exceed three times the average annual earnings of the employee. Other rates of compensation or indemnity are prescribed for partial disability. No indemnity is paid for disability not lasting more than one week.

Any dispute or controversy concerning compensation is referred to the industrial accident board, consisting of three members appointed by the governor and confirmed by the senate. Either party may present a certified copy of any award of the board to the superior court, which shall thereupon without notice render judgment accordingly. Awards may be reviewed by the superior court and appeals taken from the superior court to the supreme court.

In effect September 1, 1911.

In ILLINOIS the law applies to especially dangerous employments, which are described in the act, and include construction or electrical work, transportation by land or water and allied employments, mining and employments in which explosive materials, molten metal or inflammable fluids are handled in dangerous quantities or regarding which statutory regulations are imposed for the placing and using of machinery. Any employer covered by the act may elect to be bound by the compensation plan. If he does not so elect, the defence of assumed risk and the fellow-servant rule are denied him, and contributory negligence shall be considered by the jury only to the extent of reducing damages. Every employer is presumed to have accepted the compensation plan unless notice to the contrary is filed with the State Bureau of Labour Statistics, but he may renounce the act at the expiration of any year by filing proper notice. Every employee or employers accepting the act is deemed to be bound by it unless notice to the contrary is filed. An employee bound by the act has no common law or statutory right to recover damages other than the compensation provided in the law, except in certain cases.

The amount of compensation to be paid under the act is based on the earning power of the employee. In case of death, if the deceased leaves lineal heirs to whose support he had contributed within five years previous to the time of his death, the compensation shall equal four times the average annual earnings of the employee, but not less than $1,500 nor more than $3,500. Other amounts are prescribed if the deceased leaves collateral heirs or no heirs. In case of complete disability, the compensation shall equal one-half of the earnings, but not less than $5 nor more than $12 per week, for a maximum period of eight years or until the compensation so paid equals the amount payable as a death benefit. Thereafter the compensation shall be for life at a rate equal to 8 per cent. of the amount which would have been payable if the accident had resulted in death, but not less than $10 per month. No compensation is to be paid for the first week of disability except for necessary first aid, medical and hospital services, not to exceed $200. Necessary services of a physician or surgeon shall be paid for during the entire period of disability. Compensation for partial disability or disfigurement is to be paid at lesser specified rates.

Disputes regarding compensation shall be determined either by agreement or arbitration. In case of arbitration each party selects an arbitrator and the judge of the proper court selects the third. Appeal may be taken from the decision of the arbitrators to the circuit court of the court that appointed the third arbitrator.

In effect May 1, 1912.

In KANSAS the law applies only to railways, factories, mines and employments in which risk to life and limb of the workman are inherent, necessary or substantially unavoidable. In such employments, all employers by whom fifteen or more workmen are employed may elect to pay the stated scale of compensation prescribed by the law by filing a notice with the Secretary of State. Such election is presumed to renew automatically each year, unless terminated by sixty days' notice prior to the expiration of any year. Every employee is deemed to have accepted the act unless he gives notice to the contrary. If an employer elects not to accept the act he is deprived of the common law defences of assumed risk, fellow-servant rule, and contributory negligence, except that the latter shall be considered by the jury in assessing the amount of recovery. Any employer accepting the act is not deprived of these defences should he be sued by an employee who has not accepted the act, unless the injury was caused by the wilful or gross negligence of the employer.

The rate of compensation is based upon the employee's earnings. In case of death, if the deceased leaves persons wholly dependent, residing in the United States or Canada, the indemnity is three times his earnings for the preceding year, but not less than $1,200 nor more than $3,600. In case of total incapacity, the compensation is 50 per cent. of his earnings payable periodically for a maximum period of ten years during such incapacity, but not less than $6 nor more than $15 per week. Other rates of compensation are prescribed if there are no dependants in case of death or if the incapacity for work is only partial in case of injury. No compensation is allowed for injuries which do not disable the workman for more than two weeks. An injured employee's right to compensation may be terminated if he removes beyond the boundaries of the United States or Canada.

Disputes regarding compensation may be settled by arbitration if mutually agreeable to employer and workman, and the arbitrator's award with the consent to arbitration attached, shall be filed in the office of the clerk of the proper district court. In default of agreement or arbitration, a workman may enforce his right to compensation in any court of competent jurisdiction.

In effect January 1, 1912.

In MASSACHUSETTS the law creates The Massachusetts Employees' Insurance Association governed by a board of fifteen directors appointed by the governor in the first instance, and therafter elected by the subscribers. Any employer in the Commonwealth may become a subscriber. Subscribers shall be divided into groups according to the nature of the business and the degree of risk of injury. Subscribers in each group will pay annually such premiums as may be required to pay compensation for injuries which may occur in that year. The association thereupon pays all claims to which any subscriber may become liable, either under the stated schedule of compensation provided for in the act or as a result of any action at law for injuries sustained by an employee. If any employer fails to become a subscriber to the association, he is deprived of the defence of contributory negligence, the fellow-servant rule and the doctrine of

assumed risk, but these defences are available to a subscriber if the injured employee chooses to claim his common law right of action rather than receive the stated compensation of the act.

The schedule of compensation is based on a percentage of the average weekly wages of the employee, being 50 per cent. for a period of three hundred weeks, but not less than four nor more than ten dollars a week, in case of death, when the deceased leaves persons wholly dependent on him. In case of total incapacity the rate is the same, the maximum period of payment is five hundred weeks, the maximum total payment, three thousand dollars. No compensation is paid for an injury which does not incapacitate the employee for at least two weeks.

An industrial accident board is created to administer the law. When an agreement is reached between the association and an injured employee in regard to compensation under the act, a memorandum of the same is filed with the board for approval, and if approved becomes enforcible as a degree of the superior court. In case of disagreement as to compensation, the industrial accident board calls for the formation of a committee of arbitration of three members, one of whom shall be a member of the board, the other two named respectively by the two parties. The decision of the arbitration committee becomes enforcible as a decree of the superior court, unless a claim for review is filed by either party within seven days. In case of review, the industrial board shall decide and from its decision there shall be a right of appeal to the supreme judicial court.

That part of the act creating the Massachusetts Employees' Insurance Association in effect January 1st, 1912; the remainder of the act in effect July 1st, 1912.

In NEVADA the act applies to workmen engaged in manual or mechanical labour in or on the erection of buildings or bridges requiring steel construction, the operation of elevators, construction and operation of electrical apparatus, the operation of railroad locomotives, trains or cars, the construction and repair of railroad tracks, the construction and operation of mills, smelters, mines or tunnels and all work necessitating dangerous proximity to explosives. In all employments enumerated in the law the employer is bound to pay compensation for injuries or death according to the scale set forth in the act, although the workmen may pursue any other remedy at law and disregard the provisions of the act.

The common law defence of assumption of risk and the fellow-servant rule are abolished and contributory negligence shall not bar recovery under the act where the employee's negligence was slight compared with that of the employer.

The rate of compensation is based upon the employee's earnings. In case of death, if the deceased leaves persons wholly dependent, the amount payable is a sum equal to three years' earnings, but not less than $2,000, nor more than $3,000. In case of total disability, the payment is 60 per cent. of the average weekly earnings, each week during the period of disability, but not exceeding in all $3,000. Other compensation prescribed by the act varies according to the nature of the injury, and, in case of death, if the deceased left partly-dependent persons or none. No compensation is paid for disability lasting less than ten days.

In case of disputes over compensation the question shall be submitted to a board of arbitration, the employer and the workman each choosing one arbitrator, and the two arbitrators choosing a third. Their decision, if unanimous, is binding on both parties. On failure of the arbitrators to agree, either party may apply to a court of competent jurisdiction.

In effect July 1, 1911.

In NEW HAMPSHIRE the act applies only to workmen engaged in manual or mechanical labour in or on railroads, mills, factories, and other employments enumerated as dangerous because in them the risk of employment and the danger of injury caused by fellow-servants are great and difficult to avoid. Any employer of workmen in the occupations enumerated in the act may elect to be subject to the payment of compensation to injured employees according to a stated scale. If he does not elect to accept the compensation feature of the law, the fellow-servant rule and the doctrine of assumed risk are denied him as defences and the plea of contributory negligence shall avail only when the fact of such contributory negligence is made to appear by a preponderance of evidence.

An employer signifies his intention to accept the compensation plan by filing a declaration with the Commissioner of Labour, and must thereupon satisfy the Commissioner of his financial ability to comply with the law or file a bond conditioned upon his discharge of all liability incurred under the act. An employer may at any time revoke his acceptance of the compensation plan by filing a declaration to that effect. Even though an employer has accepted the compensation plan, his employees may choose between accepting the stated compensation and commencing an action for damages. In the latter event, the common law defences are not denied the employer.

The rate of compensation is based upon the earnings of the employee, being, in case of death, when the deceased leaves relatives wholly dependent, a sum equal to one hundred and fifty times the average weekly earnings. In case of total incapacity the maximum rate is fifty per cent. of the average weekly earnings, but not exceeding $10 a week, for three hundred weeks. No compensation shall be received for incapacity lasting not more than two weeks.

Any question as to compensation arising under the act shall be determined by agreement or in equity. The injured workman or his representative may recover compensation in any court having jurisdiction, and any employer, who has declared his intention to act under the compensation feature of the law, may apply to the superior court for a determination of the amount to be paid an injured workman.

In effect January 1, 1912.

In NEW JERSEY the law applies to all kinds of employments and to all employers. The law is divided into two sections. Section two contains the stated scale of compensation to be received by employees for injuries sustained by them, provided both the employer and employee have elected to accept this scale in lieu of any other method, form or amount of compensation. Every contract of hiring is presumed to have been made under section two, unless the contract expressly provides that section two shall not apply, or unless either party gives written notice to the other, prior to any accident, that the said section shall not apply. Any contract for the operation of section two may be terminated on sixty days' notice by either party. In all cases where either party renounces the stated scale of compensation under section two, action for damages may be tried before a jury. Where personal injury is caused by the actual or lawfully imputed negligence of the employer, the doctrine of assumed risk, and the fellow-servant rule, may not be pleaded as grounds of defence. Neither is contributory negligence to be a defence, except wilful negligence, which shall be a question of fact to be submitted to the jury, and the burden of proof to establish wilful negligence shall be upon the employer.

The rate of compensation to be paid under the act is based upon the wages of the employee received at the time of the accident. In case of death, if the deceased leaves actual dependants, the maximum rate is 60 per cent., which is paid to a widow with five or more children. Children over sixteen are not considered as dependants, and aliens residing outside of the United States cannot receive compensation. For total disability 50 per cent. of the wages may be received for a period not exceeding 400 weeks, but in no case shall the compensation be less than $5 nor more than $10 per week. For partial disability or loss of limbs other rates of compensation are provided.

In case of disputes over compensation, either party may submit the claim to the judge of the court of common pleas of such county as would have jurisdiction in a civil case, who hears and disposes of such suits in a summary manner.

In effect July 4, 1911.

In OHIO a non-partisan state liability board of awards is created to administer a state insurance fund from premiums paid jointly by employers and employees. Any employer of five or more workmen who shall pay the premiums to such fund is relieved from liability to respond in damages at common law or by statute for injury or death to his employees, during the period covered by such premiums. Any employee of such employer who after due notice continues in service is deemed to have accepted the act. The amount of premium shall be determined by the board according to the risk in the classes of employments. Ninety per cent. of the premium shall be paid by the employer, ten per cent. by his employees, the latter amount to be paid through the employer and deducted by him from the pay-roll of his employees.

Employers who fail to pay the premiums are deprived of the defences of the fellow-servant rule, the assumption of risk and contributory negligence. Choice may be made between accepting the award of the board and instituting action at law in case injury or death is due to wilful negligence or failure on the part of the employer, and in such cases nothing in the act shall affect the civil liability of such employer.

The State Liability Board of Awards is required to disburse the insurance fund to injured employees of insured employers, to pay for medical, nurse and hospital services, and, in case of death, reasonable funeral expenses, in addition to the awards provided for in the act. These awards are based on the average weekly wage of the employee, being 66 2-3 per cent. in case of permanent total disability until death, but not more than $12 nor less than $5 a week. In case of death, when the deceased leaves dependent persons, the payment of 66 2-3 per cent. of the average weekly wage continues for a period of six years after the date of the injury, not to exceed a maximum amount of $3,400 nor a minimum amount of $1,500. Other awards are specified when the deceased leaves partly dependent persons or when the injury results in temporary or partial disability. No award is made when the disability does not last more than one week. The Board is given full power and authority to hear and determine all questions within its jurisdiction, except that the claimant for award may appeal to the common pleas court on any ground going to the basis of his right to an award, and neither party shall have the right to prosecute error as in ordinary civil cases.

In effect June 15, 1911.

In WASHINGTON the law applies particularly to extra hazardous works, although employers and employees engaged in works not extra hazardous may by their joint election accept the provisions of the act. This right of voluntary acceptance of the act extends even to employers and workmen engaged in interstate or foreign commerce, so far as not forbidden by act of Congress. Extra hazardous employments are enumerated in the law, and include factories, mills, workshops and plants where machinery is used, foundries, mines, logging, lumbering and ship-building operations, railroading and allied employments. Other occupations not enumerated by the law may be declared extra-hazardous by the Industrial Insurance Department and brought under the act. In all classes of extra-hazardous employments the remedies of workmen against employers for injuries received are withdrawn from private controversy and a relief provided regardless of questions of fault and to the exclusion of every other remedy. This relief is in the form of an "accident fund" to which each employer is required to contribute a sum equal to a percentage of his total pay-roll according to a schedule of rates set forth in the law which varies according to the relative hazard of each industry. If any employer defaults in any payment to the accident fund, the amount due shall be collected by action at law in the name of the State as plaintiff. In cases of such default, the injured employee may choose between receiving compensation under the act or proceeding against the employer by suit. If suit is brought, the defence of fellow-servant and the assumption to risk shall be inadmissable, and the doctrine of comparative negligence shall obtain. No contribution to the accident fund is made by the workmen. Each class of employment is liable for the accidents occurring in such class, but is not liable for accidents happening in any other class. The amounts contributed to the "accident fund" are intended to be no more nor less than enough to meet current liabilities. The custody of the fund is placed in the hands of the State Treasurer.

The scale of compensation is not based on the employee's earning power. In case of death a payment of $20 a month is made to the widow (or widower, if invalid) during life or until remarriage, and additional $5 per month for each child under sixteen, the total payment not to exceed $35 per month. In case of permanent total disability resulting from injury, the employee receives, during the period of such disability, $20 per month if unmarried, and if married a maximum of $35 per month, depending upon the number of children under sixteen years of age. In no case shall the total sum paid for injury or death exceed $4,000. Other amounts are prescribed for temporary or partial disability or in case of death, when the deceased leaves orphans or partly dependent persons only.

The administration of the act is imposed upon an Industrial Insurance Department, consisting of three commissioners appointed by the governor. It ascertains and establishes the amounts to be paid out of the accident fund. Any employer, workman, beneficiary or person aggrieved at any decision of the department may appeal to the superior court of the county of his residence, in so far as such decision rests upon questions of fact, but matters resting in the discretion of the department shall not be subject to review.

In effect October 1, 1911.

In WISCONSIN the common law defences of assumption of risk and the fellow-servant rule are abolished in all actions against employers on account of negligence, but employers accepting the compensation feature of the law are not deprived of these defences if the employee chooses to recover by action at law. Employers having less than four employees, however, do not come within the scope of the law,

neither do railroad employees who are included in the Comparative Negligence Act of 1907. The compensation feature of the law is compulsory as to the state and its subdivisions, and elective as to all other employers. Such election on the part of the employer is made by filing a statement with the Industrial Accident Board, and may be terminated by filing notice to that effect at least sixty days prior to the expiration of the first or any succeeding year. When an employer has accepted the compensation plan his employees are presumed to have accepted it unless contrary notice is given.

The compensation provided by the act includes all medical expenses reasonably required for ninety days, and in addition a payment based upon the earnings of the employee. In case of death, when the deceased leaves one or more persons wholly dependent on him for support, the maximum is four times the average annual earnings, but not more than $3,000. In case of total disability the compensation shall be sixty-five per cent. of the average weekly earnings during the period of such total disability. If the injured employee becomes so helpless as to require the assistance of a nurse, the amount is increased to one hundred per cent. of the average weekly earnings. No compensation is paid for the first seven days after the injured employee leaves work.

An Industrial Accident Board is created by the law to which disputes and controversies concerning compensation shall be submitted. Awards of the Board may be filed with the Circuit Court for any county, whereupon the court shall render a judgment in accordance therewith. Parties aggrieved by any award may commence in the Circuit Court for Dane County an action against the board for review of such award, but the award may be set aside only on the grounds that the Board exceeded its powers, or that the award was procured by fraud or that the findings of fact do not support the award.

In effect September 1, 1911.

BRIEF OF F. W. WEGENAST, REPRESENTING THE CANADIAN MANUFACTURERS' ASSOCIATION.

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INTRODUCTORY.

This brief is submitted as representing the official views of the Canadian Manufacturers' Association—a body representing some twenty-eight hundred manufacturing concerns and embracing in its membership between eighty and ninety per cent. of the manufacturing interests of the Dominion of Canada. The outlines of the Association's position were laid down in a report submitted by a special committee and unanimously adopted by the Executive Council of the Association on the 14th December, 1911. This brief is an amplification of the report with citations and quotations in support.

The literature upon the subject of workmen's compensation which has during the last few years reached an immense bulk, is rapidly increasing, and it is characteristic of the subject that the older literature rapidly loses value as experience in the different jurisdictions accumulates. While in this brief no attempt is made at exhaustiveness, an effort has been made to incorporate at least by reference the most important and recent of the productions.

It goes without saying that it has been sought to embody in the presentation the best that can be gathered from the systems of the various countries and jurisdictions. There is very little need, in fact very little excuse, for original thought in dealing with the subject. Every form of solution that could be suggested has been subjected to experiment in some or other jurisdiction and there is available a mass of information and experience which renders further experiment along many lines not only useless but indefensible. No proposition and no view upon the subject can be of any great value which is not founded upon an investigation of the different systems and which does not reckon with their results.

No effort has been made to prove that conditions under the existing law are unsatisfactory or that a change in the law is necessary.[1] This has been assumed. Even the assumption, however, is more or less superfluous, because, whatever view may be taken of existing conditions, the history of the subject in every other country leaves no room for doubt that some change will be made in the law of Ontario. This brief is, therefore, addressed entirely to the question of the form which such legislation should take. The brief has been prepared with specific reference to the Province of Ontario, but it has been kept in mind that the legislation adopted in recent years in seven of the other provinces of Canada, must, in the light of uniform experience in other jurisdictions, be regarded as of a temporary character only, and that the course of legislation in the other provinces will in all probability be influenced by whatever action is taken in Ontario. In fact the possibility has been kept in view of a homogeneous, if not a unified, scheme for the whole Dominion. This is a consummation theoretically attainable perhaps by Dominion legislation, but practically attainable probably in no other way than that indicated, namely, uniform provincial legislation.

[1] As to this see Rep. Atlantic City Conference; Rep. Ohio Com., Pt. I., pp. i-cxiii, and appendices I and II; Rep. Que. Com.; Rep. Ill. Com.; Rep. N. J. Com.; Rep. Wash. Com.; Rep. Fed. Com. U. S.; Rep. Mich. Com.

CONDENSED SUMMARY OF BRIEF.

Statement of Principles.

In framing a system of workmen's compensation, the following principles should, it is submitted, be kept in view and so far as possible observed.

First: For reasons both humanitarian and economic the prevention of accidents should be a prime consideration in any scheme of workmen's compensation, and no system can be satisfactory which will not tend to produce the maximum of effort and result in conserving the life, health, and industrial efficiency of the workman.

Second: Relief should be provided in every case of injury arising out of industrial accident. Such relief should not be contingent upon proof of fault on the part of the employer, but gross carelessness, drunkenness, or intentional wrong on the part of the workman should be penalized in some way.

Third: The system of relief should be adapted to cover wage-workers in every industry or calling involving any occupational risk, and should not be confined to such industries as railroading, manufacturing, building, etc.

Fourth: The relief should be as far as practicable by way of substitution for the wages of which the injured workman and his dependants are deprived by the injury. It should, as a rule, be periodical and not in a lump sum.

Fifth: The relief should be certain. It should not depend upon the continued solvency of the employer in whose service the injury was sustained.

Sixth: The amount of compensation should be definite and ascertainable both to the workman and to the employer. The system should entirely displace the present method of compensation by an action for damages, and the employer should not be subjected to any further or other liability except in cases of gross carelessness or intentional wrong on the part of the employer.

Seventh: The funds for relief should be provided by joint contributions from employers, workmen, and the province. Employers and workmen should pay in such proportions as represent the number of accidents occurring by reason of the hazard of the industry and the fault of the employer on the one hand and the fault of the workman on the other. The province should contribute an amount representing approximately the cost of administration.

Eighth: The system of relief should be such as to secure in its administration a maximum of efficiency and economy, and as large a proportion as possible of the money contributed should be actually paid out in compensation.

Ninth: The procedure for the adjustment of claims should be as far as possible dissociated from the regular courts of law. It should be simple and calculated to involve in its operation a minimum of friction between employer and employee.

Tenth: The system of compensation should be directly associated with a system of inspection with a view to the prevention of accidents and a system of prompt and expert medical attendance to mitigate the effect of the injuries.

Eleventh: The system should be such as to secure as liberal a measure of relief as possible without undue strain upon industry.

Twelfth: The system should be such as to afford some promise of permanency.

Analysis of Different Systems of Workmen's Compensation.

Practically all workmen's compensation legislation is an effort to embody in some form and in some degree the second of the principles above laid down, namely, that a wage-worker should receive compensation or relief in case of injury occurring in the course of his employment, regardless of questions of fault on the part of his employer or contributory fault on the part of the workman. This has been called the principle of "professional risk."[1] It is based upon the theory that the cost of human wear and tear should be thrown largely, if not wholly, upon the industry and included in the price charged to the consumer for the product of the industry. To what extent this theory is equitable and economically sound, and to what extent it conflicts with the legal doctrine that no man should be responsible for something not his fault need not be discussed here. The theory is the basis of all workmen's compensation legislation.

The different compensation systems of the world exhibit three distinct methods of applying the theory of professional risk. These methods may respectively be termed the individual liability method, the collective liability method, and the state liability or state insurance method. Every system in the world can be classified under one or other of these heads.

(*a*) *Individual Liability*: Under an individual liability system the obligation to compensate workmen is thrown upon the individual employer as an element of the relationship of employer and employee. The law includes a term in every contract of employment by which the employer assumes an obligation more or less extensive, to indemnify the workman for injuries received in the course of, or in connection with, the employment. The injured employee looks for his relief to the employer, who thus becomes an individual insurer of the workman against accidents. The principle of individual liability is illustrated in the English Workmen's Compensation Act and in the Acts in force in some of the provinces of Canada. Under these Acts employers are required, regardless to a large extent of questions of fault, to compensate their workmen for injuries arising out of, or in the course of, the employment. Employers are of course permitted and encouraged to insure themselves against the liability by some form of insurance, but the initial liability rests upon the individual employer and the insurance effected is uniformly for the purpose of protecting the employer against this liability and not for the purpose of insuring the workman against accidents.[2]

(*b*) *Collective Liability*: Under this method the liability to compensate the workman is thrown upon employers *collectively* in groups, according to the hazard of the industry. Employers are encouraged or compelled to combine in associations for the purpose of insuring their workmen against accidents and providing the necessary funds. The injured workman looks for his compensation, not to the individual employer, but to the association or the fund. The principle of collective liability is illustrated in the German system, under which employers are grouped by industries under state compulsion and supervision, and are required to provide funds for compensation or relief for the injuries occurring in their respective groups. The collective liability system has been adopted in some form by the

[1] See Walton, p. 22; and see post, p. 89, for further discussion.

[2] See further, post, p. 103, for distinction between accident insurance and employers' liability insurance.

majority of the countries of Europe and some of the States of the American Union, but the German system being the oldest and the most elaborately and scientifically developed is usually cited as the type.

(*c*) *State Liability*: Under this method the state itself assumes the obligation to pay compensation, the cost being levied upon employers, or employers and workmen, through the agency of a state insurance department. The workman looks for his compensation directly to the state department and the compensation is provided out of a fund levied in the form of insurance premiums upon the pay roll of industries. This method is illustrated in the Act recently adopted by the State of Washington.[1]

The method of individual liability has been pronounced with singular unanimity by those who have investigated the operation of the different systems as a failure.[2] It involves the violation of almost all of the twelve principles above laid down as representing the chief elements of a satisfactory compensation system. The individual liability systems have not tended to any appreciable degree to reduce the number of industrial accidents or to conserve the life, health and efficiency of the workman. They operate with particular hardship upon small employers and older and partially disabled workmen. They cannot be well operated so as to secure periodical payments as opposed to lump sum payments of compensation. They do not afford any assurance that the compensation payments will be made, or continue to be made, there being no guarantee of solvency on the part of those charged with payment. They have proven wasteful in the extreme, a large percentage of the money paid out in contributions by way of employers' liability insurance premiums being taken up by commissions, expenses of litigations, profits, etc. The workman is obliged to resort to legal or quasi-legal process to enforce his claim against the employer. The settlement of each claim involves a direct contest between workman and employer, the latter being supported by the employers' liability insurance company with its superior facilities for contesting claims. The individual liability systems represent the greatest and most direct strain upon industry. They are admitted by nearly all observers to represent merely a stage in the development of a satisfactory compensation system and involve in the meantime unsatisfactory relations between employers and workmen and unsatisfactory economic conditions to the community at large.

The collective liability method as applied in Germany and other countries of Europe, as well as some of the American States, is generally regarded as a success in its practical working out. The systems of these jurisdictions are found to embody in a large measure the elements above outlined as constituting a satisfactory compensation system. The type system, that of Germany, is the outstanding example of a successful solution of the problem: and criticisms upon it are directed almost solely to defects in the details and administrations of the system.[3]

The state insurance system as applied in the State of Washington and other states as well as a number of other European countries, has the approval of a large majority of the investigators and writers upon the subject. Constitutional

[1] It has been pointed out that the Washington system is more correctly described as a system of collective insurance under state administration, post, p. 122.

[2] See F. & D., 14; S. & E., 250; Rep. Fed. Com. U.S., 281; Rep. Ohio Com. Pt. 1, p. 16; and post, p. 93, for full discussion.

[3] See post, p. 129.

and other practical difficulties have interfered with the introduction of such a system in many jurisdictions where it was otherwise regarded as desirable.[1] The experience of those jurisdictions which have adopted the system has called forth enthusiastic commendation from employers and workmen as well as the general public, and has given every reason to believe that such a system affords a satisfactory solution of the problem.[2]

The greatest difficulty in the way of the introduction of an Act like that of the State of Washington is the immediate additional expense to the employer represented by a probable rise of from 100 to 1,000 per cent. over the cost under existing conditions. Most large employers cover their risk under the present laws by employers' liability insurance. While the rates for this insurance are very high relatively to the benefits conferred by it upon injured employees, the introduction of a system like that of Washington would involve an additional expense to employers representing a considerable disturbance of economic conditions to the prejudice of both employers and workmen. The same result would of course follow the introduction of an individual liability system such as that of England, in which latter case the expense of conferring corresponding benefits would be much larger owing to the large percentage of waste.[3]

There is a plan under which a collective or state insurance system could be established at an immediate annual cost not greater than, and in fact in many industries considerably less than, that of the present liability insurance rates. This plan may be called the current cost plan.[4] Under it instead of capitalizing the periodical payments due to the injured workman or his dependants and setting aside at the time of the accident a lump sum to provide for all future payments, only the current cost of meeting the annual payments would be assessed each year with a small margin for an emergency reserve fund. The annual assessments would increase as the number of dependants increased, and the annual rate would reach its maximum only after a period of twenty-five or thirty years. This was the actuarial plan adopted in Germany.[5] It represents a minimum strain upon present industry and does not involve the shock to the economic system which would be incidental to the adoption of an extensive scheme of immediate capitalization.

Recommendations.

We recommend the establishment of either a collective liability or a state insurance system. An individual liability system will not be acceptable to the manufacturing interests of the province.

We are prepared to lend every assistance to the organization of an independent, non-state, collective system, but we believe that under all the circumstances the most economical and satisfactory plan for the Province of Ontario is a collective system under provincial administration and control.

We recommend the creation of an independent, non-political, provincial insurance department administered by a Board of three commissioners. This Board should provide for the payment of all claims for compensation out of a fund to

[1] See Rep. Minn. Com., 154.
[2] See post, p. 94.
[3] See post, p. 105.
[4] See post, p. 108.
[5] See article by Dr. Zacher, in "Handwörterbuch der Staatswissenschaften," Vol. VIII. p. 65.

be raised by premiums levied upon the pay-roll of industries classified according to hazard. The Board should be vested with full jurisdiction to adjust all claims for compensation upon sworn reports of the different parties interested. It should have power to take evidence, to make independent investigations, and to re-hear and re-adjust, its decisions being final upon questions of fact and subject to appeal only in questions of law.

The Board should also have power to enforce preventive regulations, and provision should be made for the advisory co-operation of representatives of different classes of industries in the framing of such regulations. The Board should also have charge of the adjustment of insurance rates and the classification of industries.

The annual assessments of insurance premiums should be levied upon the basis of the current cost of compensation payments with a margin for an emergency fund. A percentage of the premium rates representing the proportion of the accidents due to the fault of the workman should be chargeable at the option of employers, and upon due notice, to the workmen, and deducted by employers from the wages of the workmen.

DISCUSSION OF PRINCIPLES.

In the following pages the principles and recommendations given in outline above are briefly discussed. The views presented and the conclusions drawn are in every case supported by evidence and expert opinion representing the experience of other jurisdictions. It is considered of the utmost importance that any legislation adopted should avoid a repetition of the mistakes and weaknesses of other systems. Fortunately the legislatures of Canada are not subject to constitutional restrictions corresponding to those which hamper some jurisdictions in dealing with the subject. There is therefore every reason why the system adopted by the Province of Ontario should represent the accumulated experience of other jurisdictions as well as the wisdom and ingenuity of our own.

DISCUSSION OF PRINCIPLES.[1]

First: For reasons both humanitarian and economic the prevention of accidents should be a prime consideration in any scheme of workmen's compensation, and no system can be satisfactory which will not tend to produce the maximum of effort and result in conserving the life, health and industrial efficiency of the workman.

This principle involves an immediate departure from the older legal theories of employers' liability for injuries to workmen. The question of accident prevention must be considered one of paramount importance in relation to a workmen's compensation system because of the fact that the different systems of compensation vastly differ in their effect in inducing preventive activity and care on the part of the employer and employee. In its older legal aspect workmen's compensation was largely, if not wholly, a matter of making good by a money payment of damages, for injuries sustained by the workman[2]. In its modern economic aspect the question of conserving industrial efficiency by preventing accidents and mitigating their effect is a vital, if not the most vital consideration[3].

Of the possibility of a reduction in the industrial accident rate there is not the slightest doubt. Estimates and statistics point to a possible saving of as high as fifty per cent. in the industrial accident rate by systematic and scientific methods[4]. The theory of those who who advocate an individual liability system is that by throwing the burden of accidents directly and heavily upon the individual employer he will be induced to adopt means of prevention.[5] But there can no longer be any doubt as to the futility of a system of individual liability as a means of inducing efficient preventive activity. While it may have been one of the objects in the minds of the framers of liabililty systems such as that of the Chamberlain Act of 1880 in England to reduce the number of accidents by penalizing the employer with the increased liability, experience under these systems has not justified any such expectation, and later observers have in fact failed to give these systems credit for even the purpose of reducing the number of accidents. Thus the Commissioners of the National Association of Manufacturers say,[6] "the British policy bears no relation to accident prevention," and of the Act of 1897 the Parliamentary Committee reporting in 1904 said,[7] "no evidence has been brought before us which enables us to find that any great improvement in the direction of safety is to be placed to the credit of this Act. Indeed some of the evidence points in the opposite direction." While there appears to have been on the whole, since the introduction of the English Workmen's Com-

[1] Compare enunciation of principles, S. & E., 28; and Rep. Mich. Com., 33.

[2] See statement of J. A. Emery, Rep. Fed. Com. U.S., 1088.

[3] F. & D., 140; S. & E., 11, 20, 128, 277. Art., by Louis Brandeis, "Outlook," June 10th, 1911, post, p. 123; Bulletin 78, U.S. Bur. Lab., 458; Rep. Fed. Com. U.S., 764.

[4] See also art., by Fredk L. Hoffman, Bulletin 78 U.S., Bur. Lab., p. 458; S. & E., pp. 66, 99, 314; also Rep. Fed. Com. U.S., 668, also statement of M. M. Dawson, Rep. Fed. Com. U.S., 104-5.

[5] This theory was pushed to its logical conclusion in a statement before the Federal Commission of the United States as remarkable for cogency of facts and quotations, as for confusion of logic and terminology. The witness in question advocated a system of drastic employers' liability, with prohibition of liability insurance, claiming that to allow the employer to insure was to ward off the incentive of preventive care.

[6] S. & E., 11.

[7] Cd. 2208, 22, 23.

pensation Act, some diminution in the number of industrial accidents, the writers and investigators concur in refusing to credit this to the system of compensation established by the Act.[1]

On the other hand the collective liability systems have to their credit a marked success in inducing systematic effort in the matter of accident prevention. The German system with its elaborate statistics exhibits perhaps the most striking results but a corresponding measure of success has attended the operation of other collective systems. There is absolute unanimity amongst the writers and investigators in ascribing to the German system an immense superiority over the English system in reducing the industrial accident rate;[2] and the success of the German system is due very largely to the co-operative effort evoked by the classified organization of employers.

There is every reason to anticipate for the Act of the State of Washington a similar measure of success in preventing the occurrence of accidents.[3] The explosion in the Chehalis Powder works[4] soon after the Washington Act was brought into force serves to illustrate the probable effect of the Washington system. The accident had occurred in one of the explosives works of the State and was due largely to the use of an ingredient in the manufacture of powder which increased the hazard and which the other powder plants for this reason did not employ. The accident resulted in compensation claims amounting to over $10,000, which amount is of course to be borne by the manufacturers of explosives collectively. It needs no argument to demonstrate the probability that the influence of those manufacturers of explosives who do not employ the dangerous ingredient will be exerted to have its use discontinued.

There is every reason to believe that results similar to those in Germany would be attained in this province under the proposed system of assessing employers in groups. If, as proposed, facilities are afforded for the formation of employers' associations, these will beyond doubt have a large influence in reducing the accident rate by making rules, standardizing machinery and otherwise promoting safety;[5] but even were such facilities omitted employers would probably find means, within the different groups, of combining for co-operative effort in accident prevention.

Another factor in the matter of accident prevention, one which does not appear on a casual examination to have any bearing upon it, but which has been found to be in fact of the greatest importance, is the question of the actuarial plan adopted in compensation insurance. The subject is discussed in succeeding pages,[6] but it should be observed here that one of the greatest means of inducing preventive activity is the rapid rise in insurance rates involved in the current cost plan of insurance.

It is submitted that the greatest possible care should be given to the selection of those features of other systems which have been found to exercise any influence in promoting the prevention of accidents, and that other considerations must wherever necessary give way to this feature.

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[1] Rep. Fed. Com. U.S., 116.

[2] S. & E., 99; Rep. Fed. Com. U.S., 104, 1,432; F. & D., 138; Cd. 2,458, p. 33.

[3] See Interim Rep. Ont. Com., 175, and post, p. 128.

[4] See account of accident, post, p. 134; see also correspondence, with reference to Chehalis explosion, post, p. 124.

[5] S. & E., 285. See Interim Rep. Ont. Com. 328, 344.

[6] See post, p. 108.

Second: Relief should be provided in every case of injury arising out of industrial accident. Such relief should not be contingent upon proof of fault on the part of the employer, but gross carelessness, drunkenness or intentional wrong on the part of the workman should be penalized in some way.

Under the older legal systems, continental as well as English, the ability of a workman to recover damages for injury depended upon his ability to prove the injury to have been caused by the fault, or, to use the technical term of English law, the *negligence* of the employer. The rule as to the liability of the employer was no different from the general rule applicable to all persons, namely, that a man should not be held answerable in damages for something not his fault. Attempts have been made to reconcile the modern doctrines of workmen's compensation with this older principle. It has been implied, if not expressly urged, that the employer, having brought into existence and operation modern industrial appliances and methods, has created conditions which should be imputed to his fault, and that he should therefore be held responsible for the results of these conditions.[1] This view assumes two untenable propositions, namely, that modern industrial conditions are created by, and for the exclusive benefit of, employers, and that industrial accidents are due entirely to these conditions.

The fact is that the modern theories of workmen's compensation are based upon grounds of practical expediency and not upon notions of abstract justice. The principal grounds are: In the first place, the employer is considered to be in a position to do for the workman what the workman cannot, or will not, do for himself, namely, insure the workman against accidents: for even with an increase in wages corresponding to the insurance premium necessary to insure himself, the improvidence of the workman would preclude any hope of his voluntarily assuming the burden. In the second place, the employer being in the position of *entrepreneur* is considered to have facilities for throwing the cost of compensation upon the product and to collect it from the consumer.[2] To these two considerations there may be added a third, namely, that the money wasted in disputes over questions of fault in individual cases would go a long way towards providing for compensation where no fault lay against the employer.

Without detracting from the weight of these considerations it may be pointed out that they do not stand alone or unqualified and that the considerations of justice which formerly governed are not abrogated. It is no more just now than formerly that an individual employer should be held responsible for something not his fault, nor that a workman should receive damages for injuries due to his own fault. It is neither just nor expedient that a workman should not have his own carelessness brought home to him. And there is a further consideration of expediency requiring the enlistment of the workmen's pecuniary interest in preventing the occurrence of injuries. In addition to this, practical expediency, as well as justice, demand that the burden thrown upon the employer should be borne by employers collectively and not individually. With regard also to the

[1] Under a rule analogous to that in the old case of Rylands v. Fletcher, so, *e.g.*, Mr. Asquith, as Home Secretary, in 1893, used the following words: "When a person, on his own responsibility, and for his own profit, sets in motion agencies which create risks for others, he ought to be civilly responsible, for the consequences of what he does." And see similar argument, Rep. Fed. Com. U.S., 197. This theory was the basis of some of the earlier legislation of Germany (*e.g.*, The Prussian Railway Law, 1838), but was soon abandoned.

[2] See F. & D., 8; Rep. Fed. Com. U.S., 1088.

theory that, as in the case of broken down and worn out machinery, so in the case of the injury or death of workmen, the loss should be borne by the employer and added to the cost of production as incidental to modern industrial methods, it may be observed that the analogy may be easily overdrawn. The workman is not a machine. An injured or worn out machine may be replaced or repaired at a cost that can in most cases be estimated with precision and the machine in its injured state is still the property of the employer and may be sold and replaced by another, for the purchase of which the markets of the world are open. The freedom of contract and volition on the part of the workman constitutes a vital difference between him and the inanimate agencies of production.

The "professional risk" theory imputes, in reality, to the relationship of employer and employee obligations and rights for which the common law affords no real analogy. These rights and obligations are social in their nature and involve considerations in which the community at large is vitally interested. A workmen's compensation system involves the merging of the workmen's private right of action against the employer in the larger right of the general public to have the injured workman taken care of; or, in another aspect, it merges the private obligation of the employer to compensate the workman in the larger obligation to the public of keeping the workman from dependence on charity.[1]

The socialistic element in workmen's compensation legislation is, of course, freely recognized.[2] It was recognized by Bismarck in introducing the German Act of 1880[3] and Joseph Chamberlain referring to the English Act of 1884, said: "The Poor-law is socialism. The Education Act is socialism. The greater part of municipal work is socialism, and every kindly act of legislation by which the community has sought to discharge its responsibilities and its obligations to the poor is socialism, but it is none the worse for that."[4] The great defect in the individual liability system is that it seeks to operate a socialistic doctrine with inadequate individualistic machinery.

Whatever economic arguments may be advanced for a system of individual liability it is and will forever remain unjust that an individual employer should be responsible for injuries occasioned to a workman by the workman's own negligence, or the negligence of another than the employer. The rule of contributory negligence and the fellow servant rule as embodied in the common law of England are not unjust. If B., an employee of A., is injured by his own negligence or by the negligence of C., a fellow employee, there is no shadow of a foundation in justice for a claim against A. for damages. In order to see the elementary relationship A., B. and C. respectively should be considered as persons of coordinate rank, say three journeymen carpenters, but the relationship of the parties cannot and ought not to be considered different if A. is a wealthy corporation. The disease aimed at by compensation laws is an economic condition, not a legal wrong, and an individual liability law is an attempt to do an economic right by doing a legal wrong, an attempt which experience in many countries has proven unwise even as a temporary expedient.

The present English Act represents the logical evolution of the principle,

[1] See statement of R. J. Cary, Rep. Fed. Com. U.S., 139; see also Laband, Droit Public de L'Empire Allemand, IV.

[2] See Brief of Carman F. Randolph, Rep. Fed. Com. U.S., 1428.

[3] See Rep. Fed. Com. U.S., 952.

[4] Speech at Warrington on Sept. 8, 1885. See F. & D., 140, for answers to criticisms against German system as socialistic.

adopted in the Act of 1880, of securing compensation for workmen by an extension of the personal liability of the employer. The present English Workmen's Compensation Act is still in essence an employers' liability act and is in line with the older legislation of many other countries, including Germany.

These older laws were directed towards the wiping out of the so-called defences of contributory negligence, common employment and assumed risk which stood in the way of the workman's recovering compensation under the common law, and thus extending the liability of the employer. Experience soon showed that with these defences abrogated a large percentage of industrial accidents still remained uncompensated as being purely accidental and not attributable to fault on the part of anyone.[1] Speaking of the earlier German law of 1871, Dr. Zacher says: "The law did not have the desired effect; it left the vast majority of the accidents (those occurring through the hazard of the employment, or fault of the workman or fellow-workman) uncompensated as before."[2] The Ohio Commission also found that "statistical investigations show that less than twenty per cent. of the workingmen injured and killed have a cause of action at law; that is, in less than twenty per cent. of the cases is the course of injury attributable to the negligence of the employer"[3] and that in more than 80 per cent. of all accidents to workingmen there is no remedy at all. In many jurisdictions there still remains a nominal reservation against the workman in cases of gross carelessness or wilful misconduct—a reservation which amounts to little or nothing in practice[4] but is the last vestige of the older common law theory.

Another form of legislation in vogue in some jurisdictions, involving a further violation of principles of natural justice, was directed towards shifting the burden of proof from employee to employer, leaving it to the latter to disprove fault. There is, however, a marked tendency to disregard entirely any contributory cause on the part of the workman where the effect of such a reservation would be to deprive innocent dependants of compensation, the pervading thought in thus sweeping into the net of compensation cases both deserving and undeserving being that the money which would be consumed in litigation and otherwise, over the determination whether in particular cases the compensation should or should not be paid, would suffice to meet the undeserving cases.

With the qualifications above mentioned, therefore, it is submitted that the principle of compensating regardless of fault should be recognized as the basis of the system. Having laid down the general principle, however, it is necessary to consider what means are open to prevent an abuse of the system by carelessness or self-inflicted injury. Most systems withhold or reduce the compensation in cases of injury arising out of intentional wrong-doing or other serious misconduct. There is no doubt that misconduct on the part of a workman endangering his own or other workmen's safety should be brought home to him individually, and this, perhaps, whether an injury has been occasioned to the workman or not. Whether, if the workman is injured in such a case, the compensation should be wholly or partially withheld might be left by the Act for the proposed Commission to decide in individual cases. Attention may be called to the provision of the Act of the State of Washington under which for removing guards on machinery, etc, the compensation is reduced by ten per cent.

[1] Interim Rep. Ont. Com., 335.
[2] Art. of Dr. Zacher, in "Handwörterbuch der Staatswissenschaften, Jena. 1911, Vol. VIII.
[3] Rep. Ohio Com., Pt. 1, p. lxxxiii.
[4] S. & E., 203; Cd. 2,208, p. 65; F. & D., 11.

Third: *The system of relief should be adapted to cover wage workers in every industry or calling involving any occupational risk, and should not be confined to such industries as railroading, manufacturing, building, etc.*

The experience of other countries gives every reason to anticipate that any system of workmen's compensation that may be adopted will be ultimately and inevitably extended to include all classes of wage-workers. The English Act of 1897, which originally applied only to seven groups of industries considered to be particularly hazardous, has been gradually extended until practically all occupations are now covered; although the system established by the Act was very ill-adapted for such extension. A similar development marked the history of the German law, which now covers all occupations. No reason can, of course, be adduced except that of temporary inexpediency, for excluding wage-workers in such industries as agriculture and horticulture. The wage-worker who loses an arm in a farm machine is as much entitled, equitably and economically, to compensation as the workman who loses an arm in a machine in a factory. Statistics also show that farming is one of the most hazardous of all industries. In Germany, where general conditions differ very little from those of this country either in the relative hazard or in the proportion of persons respectively engaged in the different occupations, between 40 and 45 per cent. of the total number of accidents occur in the agricultural and horticultural industries. In the schedules of accident insurance companies in this country and in the United States, farmers are classed as extra-hazardous risks. Similar observations might be made with respect to such industries as lumbering and fishing, although these occupations do not engage anything like a similar proportion of workmen. It is a matter for careful consideration that any system that may be adopted shall be one that will fairly lend itself for ultimate extension to all classes of industries.

At the outset, and in order to obviate too great complexity in the inception of the system, it might be well to include in the system only certain classesof employers and only employers of a certain stated number of persons, say three or five; but the system should be so framed as to permit readily of extension to the smaller employers and to all occupations.

Fourth: *The relief should be as far as practicable by way of substitution for the wages of which the injured workman and his dependants are deprived by the injury. It should as a rule be periodical and not in a lump sum.*

The consensus of opinion amongst authorities on workmen's compensation is in favor of this principle.[1] Wage-workers are, as a class, unaccustomed to the handling of large sums of money and where compensation is paid in lump sums it is liable to be dissipated through extravagance or improvident investment.[2] Experience in the United States and under the present English Act has shown also that where compensation is paid in lump sums a much larger proportion is consumed in legal expenses than would be under a system of periodical payments.[3] The prospect of a lump sum payment as the probable result of an acci-

[1] See F. & D., 23; 24th Rep. U.S. Bur. Lab., 40; Rep. Fed. Com. U.S., 887, 943; Cd. 2208, pp. 68, 86; Cd. 2458, p. 25.

[2] The Fabian Society suggests that Compensation should always be in the form of pensions; because of the risk of investment by workmen. Prof. Mayor's Rep. (1900), p. 25; see also Rep. Conf. Com., 64; Cd. 2208, p. 87; Rep. Fed. Com. U.S., 111, 279.

[3] Rep. Conf. Com., 65. Bulletin des Assurances Sociales (1910), Pt. I., p. 136.

dent is also a larger inducement to self-inflicted injury than the periodical payment of a proportion of wages. Experience has, in fact, shown that most of the proven cases of self-injury have been occasioned by the need or desire for an immediate sum not available by way of wages. It has been urged also that the payment of the lump sum creates an inducement for the workman to live in idleness while his funds last instead of going back to work and earning what he can.[1] Finally, except in the case of the death of an injured workman it is impossible to estimate accurately the extent of the injury. The fixing of compensation by arbitrary assessment on the basis of an anticipated period of incapacity leaves room for the danger that the period has been under-estimated, and the danger, equally to be guarded against, that it has been over-estimated. Both these difficulties are obviated by a system of periodical payments. Even the English Act provides for periodical payments in certain cases. Where injuries result in disablement the compensation is in the form of weekly payments on the basis of half the impairment of the earning capacity. Provision is made, however, for the commutation of these weekly payments and as a matter of fact they are in most cases commuted.[2] This, of course, nullifies to a large extent the intention of the Act, but some provision for commutation is almost indispensable in an individual liability system since the obligation of paying pensions for a period of years should create an intolerable burden for most employers[3] and add to the insecurity of the workman. This latter feature was recognized in England by making provision for the purchase of Government annuities in commutation of periodical compensation payments, which provision in itself constitutes the embryo of a state insurance system, and the inclusion of the principle of periodical payments even in its attenuated form in the English Act shows how far the English Act has departed from the "wergeld" theory under which the damages payable for injuries were regarded as commutation of the retribution which the injured person or his family was considered entitled to mete out to the injurer.

Of the German system Messrs. Schwedtman & Emery say: "The advantage of weekly pensions for injured workers or dependants as compared with lump sum payments is so thoroughly fixed in the minds of German theoretical and practical experts that it is impossible to find a single advocate of lump sum payments."[4] Speaking for the American Federation of Labor before the Federal Commission Mr. Samuel Gompers said: "I can see that there may possibly come a time during the life of a totally incapacitated workman, his condition being due to an accident, when a lump sum might be of some advantage to him, but I think it is of much greater advantage to him and his dependants and to society to avoid risks of a failure resulting from the investment of a lump sum. It would be better and safer for him and his dependants and for society if he were for his entire life time saved from charity or pauperism. While it is true that one might occasionally achieve a financial competence by reason of a timely investment of a lump sum of money, the chances are the other way. I believe that the purpose of compensation is not necessarily to afford the opportunity even for successful entrance into business, but it is primarily to secure for the injured or the workman killed, either for himself in the first instance or his family in every instance,

[1] Rep. Conf. Com., 65; Bulletin des Assurances Sociales (1910), Pt. III., p. 685.
[2] See Rep. Fed. Com. U.S., 111, 112, 676.
[3] See Rep. Ill. Com., 29.
[4] S. & E., 49, 206.

the opportunity of being saved against charity or pauperism. Once the lump sum is paid and invested in a small business, or otherwise, and it is dissipated by a failure to secure success, the maimed man or his family or dependants are no longer entitled—and justly so—to payments on the part of the employer in whose service the injury or the death occurred."[1]

There may doubtless be instances where a lump sum payment wholly or partially commuting the periodical payment would be advisable. One instance of this would be where an artificial limb or other device was required. But experience seems to show that once precedents of commutation are established it is difficult to control their extension, and while there should probably be provision for commutation at the discretion of the administering board, such a provision should be surrounded by safeguards adequate to prevent its abuse.

As to the basis of compensation payment, it is being submitted below,[2] subject to certain considerations, that this should be a fixed proportion of the impairment of earning capacity with a certain fixed maximum.

Fifth: The relief should be certain. It should not depend upon the continued solvency of the employer in whose service the injury was sustained.

The correctness and importance of this principle is so obvious that it requires no supporting argument. Its absence is the most manifest defect of an individual liability system. The Departmental Committee of 1904 frankly recognized this defect of the English Act, and forecast the trend of future legislation in a rather remarkable paragraph quoted elsewhere.[3] As stated elsewhere,[4] insurance under an individual liability system fails where and when it is most needed. In the case of the small employer, where the danger of insolvency is greatest, insurance is, under a voluntary system, usually omitted, and in the case of the larger employer it fails where the accident is of a magnitude beyond the scope of the limited liability assumed by insurance companies at normal premium rates.[5]

It need hardly be pointed out that in the matter of solvency a collective system offers a vast superiority over an individual liability system. The basic principle of insurance is the spreading of loss over a wide area, and the proposed system would act automatically as an insurance system under which each employer would be supported by the whole class into which for assessment purposes he was placed. The only danger to be guarded against in such a system would be that of having the classes too small.

The highest degree of solvency is, of course, attained in a state system of insurance backed by the guarantee of the state. The recent criticisms of Dr. Friedensburg upon the German system point to the possibility of the ultimate assumption by the Government of full control of and responsibility for the compensation now administered by the trade associations of Germany. The present system of Germany is not a state system. The state merely lends its compulsive power for purposes of organization. Having compelled employers to organize, the state steps aside, leaving the management of the funds to the mutual associations

[1] Rep. Fed. Com. U.S., 869, and see further discussion of subject, p. 869 et seq.
[2] See post, p. 85.
[3] See post, p. 96.
[4] See post, p. 91.
[5] See post, p. 105.

and exercising only a regulative supervision. The size of the mutual associations, however, affords a guarantee of solvency sufficient for all practical purposes, but as Dr. Friedensburg suggests, the possibility exists that a period of industrial depression might render the trade associations incapable of fulfilling their obligations. Against such a contingency the Government of Germany has compelled the setting up of a reserve, which has now reached a very large amount, by adding a small margin to the yearly insurance rate.

With the machinery for the collection of insurance premiums in the hands of the state there is not the same necessity for the setting up of a contingency reserve, and the state being in a position to levy the necessary funds, need have no compunction in assuming a responsibility which affords the strongest possible guarantee to the workman.

Sixth: The amount of compensation should be definite and ascertainable both to the workman and the employer. The system should entirely displace the present method of compensation by an action for damages, and the employer should not be subjected to any further or other liability except in cases of gross carelessness or intentional wrong on the part of the employer.

On pure economic grounds it is important that the obligation cast upon employers should be as definitely ascertained as possible. If the burden is to be transferred to the consumer it must be more closely calculable than the amount of a jury verdict. The employer should be in a position to place in his estimates a definite amount against accident compensation without being subjected to the contingency of expensive actions at law in addition.

On grounds of economy also and for the protection of the workman himself it is important that the glamour of a common law verdict with its speculative possibilities should be removed. So long as there is left open to the workman the opportunity of an individual right of action, with or without the option of a subsequent claim upon the compensation fund, there will remain the possibility and probability that the workman, under the advice of interested persons, will resort to this speculative remedy.[1] "Compensatory legislation is intended to exclude or purposely endeavors to discourage, save in exceptional cases, the use of pre-existing remedies at law. The creation of a single liability or a single obligation to contribute to a compensation fund, is the purpose and evident tendency of all foreign legislation. A single liability is essential to the satisfactory operation of the compensatory principle and its adoption should therefore be accompanied by the repeal, as far as possible, of all other remedies."[2] This accords with the opinion of the writers and authorities upon the subject.[3]

It is very important also in a system of compulsory state insurance that there should not be left outstanding any uncovered liability. Where such a liability remains, employers will naturally have recourse to insurance to protect themselves and the very condition of things which the state insurance system is intended to prevent is again called forth. From the standpoint of the employer the advantage of a compensation system such as that proposed would be largely lost if the older legal remedies were still left available to the workman. It may be

[1] Rep. Conf. Com., 214; Rep. Mich. Com., 33.
[2] S. & E., 264.
[3] Rep. Conf. Com., 227; see also S. & E., 79; Rep. Fed. Com. U.S., 16.

that the other remedies would be rarely resorted to, and this is sometimes used as an argument against their abolition. But so long as the possibility of an action at law remains so long will the workmen be tempted to resort to it and so long will the employer be subject to an insecurity against which he will find it necessary to insure himself and will be solicited to do so by insurance companies. Such a system would not be satisfactory to the employers of the province.

A difficult situation appears to have arisen in the State of Ohio by reason of the provision of the Act of that State which gives to the employee the option, in cases where the injury was due to the wilful act of the employer or his officers or agents, or their failure to comply with any statute or municipal regulation or the orders of government or municipal officers, either to apply for compensation to the Insurance Boad or to bring an action at law. Representatives of liability insurance companies are urging, and with reason, that under the state insurance system a very substantial portion of the risk is left uncovered while under the policies of the private companies this risk is assumed. The result has been a general indisposition on the part of employers to enter the state scheme, to the prejudice of the state system in competing with private companies.

In the State of Washington there was, it appears, at first some hesitation on the part of employers as to dropping all liability insurance, but it was largely due to the doubt as to the constitutionality of the Act, and has now almost entirely disappeared.

There would, of course, be no objection to strict penalties upon the careless employer, but these should not be in the form of an action against the employer by, and for the benefit of, the workman. The regulations of the Board or of the voluntary associations would doubtless provide penalties for negligence on the part of the employer for breaches of statutory enactments or disobedience to duly authorized inspectors. Provision might also be made for proceedings by the Board against an individual employer in the case of an injury due to the wilful act of the employer. But such proceedings should not accrue to the benefit of the individual workman and any amount recovered should go into the general fund. On the whole it is submitted that very little improvement can be made upon the provision of the Washington Act dealing with this feature.[1]

Seventh: The funds for relief should be provided by joint contributions from employers, workmen, and the Province. Employers and workmen should pay in such proportions as represent the number of accidents occurring by reason of the hazard of the industry and the fault of the employer on the one hand and the fault of the workman on the other. The province should contribute an amount representing approximately the cost of administration.

The only phase of the subject of workmen's compensation upon which any considerable difference of opinion exists is that of contribution by the workman to the cost of the insurance.[2] So long as compensation was a matter of recovery of damages for fault, direct or indirect, on the part of the employer, there was no logical reason for contribution, but the modern systems of compensation in which all cases are covered practically regardless of fault raise the question whether the workman should not contribute out of his wages a proportion of the insurance premium representing the proportion of accidents due to the fault of the workman.

[1] Section 9.
[2] See Rep. Ohio Com., 316.

The difference of opinion amongst expert authorities may be attributed very largely to the strenuous opposition of the rank and file of the labor interests to any deduction of wages.[1] Some of the writers and authorities upon the subject have been or are official representatives of labor organizations, and are naturally influenced by the general attitude of these bodies. Other investigators who are not directly subject to this influence are nevertheless actuated by a spirit of compromise to the hostility of labor organizations and by the notion that any economic injustice will find its adjustment in the amount of wages. As the question of contribution is the only feature of the subject upon which the interests of employers and workmen seriously diverge, it is only natural that this spirit of compromise has found expression in some of the established systems. But notwithstanding the disposition of workmen to avoid the burden, the principle of joint contribution has been recognized and embodied in a majority of the systems[2] and workingmen themselves are becoming gradually educated to a broader view of the whole subject.

The attitude of trades unions upon the question of contribution is commented upon by Professor Henderson in the following passage: "Obligatory workingmen's insurance has been in the past in this country connected with attempts to compel the workman to pay an excessive share of the premiums, to break the power of the union and alienate its members, and to retain the equitable share of the funds to which the men have contributed if they leave the service or are discharged. In conventions the propositions for collective insurance have been championed by the socialist faction and have gone down in the defeat of this party. Insurance in the European sense has never yet been offered to our workmen in any state.[3] When it is shown that obligatory insurance does not mean absolute control of employers, but union of effort in which both sides are fairly represented in local management; that the interest in collective bargaining remains untouched; that voluntary organizations are recognized and made secure by suitable state supervision and control and that taxpayers, so far from being asked to increase burdens, will be substantially relieved from many charity demands, it seems likely that indifference and antagonism will change to approval. Mr. John Mitchell has expressed a favorable opinion which already has won the attention and approval of many trade-unionists."[4]

The point of view upon this phase of workmen's compensation varies with the basic conception of the whole subject. "Great Britain clinging to the spirit of the poor laws, exacts no contribution from the beneficiaries of her old-age pensions and compensation laws. On the continent, however, workmen contribute to social insurance generally and in some cases to accident compensation. . . . . Insisting that differentiation from poor relief must be conspicuous in fact if social insurance is not to encourage pauperism, we make no difficulty about its accuracy in point of law and shall, therefore, assume that compensation acts are

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[1] But see Rep. Mich. Com., 134, 141.

[2] The contributory principle is recognized in the following European countries:

Norway	4 weeks waiting period.
Sweden	60 days waiting period.
Denmark	13 weeks waiting period.
Holland	13 weeks waiting period.
Germany	13 weeks waiting period.
Austria	4 weeks waiting period and 10% of premiums
Switzerland	25% of premiums .

[3] This is of course not true since the Acts of Washington, Ohio and Massachusetts.

[4] Henderson, Industrial Insurance, 2d edition, 61.

not to be classed with pauper legislation."[1] In other words: "The British legislature intervenes to relieve dependency; the German to confer a right to assistance in return for contribution."[2]

As a matter of fact, indeed, the original intention in introducing the English Act was that workmen should contribute to the compensation for injuries by themselves bearing the burden for the first three weeks. Mr. Joseph Chamberlain stated in introducing the Act of 1897, that the only ground which justified the proposal of the Government to make provision for work injuries was the fact that there were a large number of injuries that might be presumed to incapacitate the workmen more than three weeks and said: "If it could be presumed that all work-injuries would last three weeks or less, I can see no reason for the interference of the Government because those are injuries for which the workman might be expected to provide against himself."[3]

The German system has steadily adhered to the principle of a long "waiting period," thirteen weeks. In other systems the workman pays directly a portion of the insurance premium by way of deduction from his wages, and the latest and one of the most thoroughly considered acts of the United States, namely, that of Ohio, recognizes the contributory principles by authorizing the employer to deduct 10 per cent. of the insurance premium from the wages of the workman.

While the general tendency is for workmen to oppose and employers to favour contribution from the workman, this is not uniformly the case. In Germany where the relations arising out of the workman's contribution are best understood the tendency is to some extent in the other direction. During the last session of the Reichstag an amendment proposed by employers and bitterly opposed by workmen was passed increasing the contributions of employers to the sickness fund from one third to one-half.[4] The motive of the workmen in opposing the change was to maintain their representation on the management of the association. There is therefore, this further consideration in connection with the question of contribution that the extent to which workmen participate in the administration of the system will naturally depend upon whether, and to what extent, workmen contribute to the insurance fund.

Leaders of labour organizations are in fact quite free to admit that their chief objection to contribution is based not upon principle but upon the unwillingness of the workman to pay for insurance; and that education is likely to make a great difference in this attitude. It is believed that the workmen of Canada and particularly of the Province of Ontario will be quicker than the workmen of most other countries to appreciate the immense benefits of the proposed scheme and to take their proper part in its maintenance.

Apart from experience and logic, however, it should be borne in mind that the great mass of employers in the Province regard it as of paramount importance that workmen should contribute to the accident insurance funds. A system throwing the burden entirely upon employers would be received with hostile feelings which would very naturally affect the administration of the Act. It will undoubtedly make a great difference throughout the Province in the enforcement of the Act and in the establishment and development of the proposed voluntary associations for accident prevention, if the Act, instead of being looked upon as an imposition, can be launched with the favour and even enthusiasm of employers.

[1] Brief of Carman F. Randolph, Rep. Fed. Com. U.S., 1428.
[2] S. & E., 10.
[3] See Rep. Fed. Con. U.S., 1092; S. & E., 10.
[4] See Rep. Conf. Com., 165.

The principal reason for covering all accidents, regardless of questions of fault, is that the expense of determination of these questions in specific cases is eliminated. But to throw the entire cost of insurance upon the employer not only shocks the sense of justice but places the workman in a humiliating position. It is no doubt true that on its economic side any money contribution on the part of the workman could be worked out as a matter of adjustment of wages. It may be observed by the way, that this is true in a sense converse to that in the argument against contribution, for if the workman's contribution were inequitably large it would result in an increase of wages. There is, however, a point at which the self respect of the workman becomes involved. Even the most advanced form of socialism would not seek to free the workman from all sense of responsibility for his own actions, or to throw upon the employer or the community at large the responsibility of making provision for his every want. So long as it is recognized that there are certain things which the workman is expected to provide for himself out of his wages, there must be a point at which the obligations of the employer end. This principle is so elementary that its mere statement almost calls for apology: yet this very principle would be violated by throwing on employers the burden of compensating workmen for injuries due to their own fault. So long as any injuries are due in whole or in part to the fault of the workman elementary principles of justice demand that he should bear a share of the pecuniary responsibility.

If the pecuniary consideration were the only one it might be partially counterbalanced by the inconvenience of collecting the workman's portion and the irritation attendant thereupon. But there are other and weightier reasons for a recognition of the principle of contribution. It will not be seriously disputed that the highest degree of co-operative effort on the part of the workman to the end of preventing accidents cannot be secured without throwing upon him some direct pecuniary responsibility.[1] If there should be irritation attendant upon the practice of deducting from wages a portion of the insurance premium, or if there should be dissatisfaction with the "waiting period," these will serve to keep before the mind of workmen not only individually but through their organizations to a degree not otherwise possible, the interest of the workman in systematic and scientific methods of accident prevention; and collective effort on the part of workmen is in fact as necessary as collective effort on the part of employers in order to attain a full measure of success in prevention of accidents.[2]

If there were not to be some form of contribution from workmen it would be necessary, upon principles of elementary justice, to withhold compensation in cases where the injury was due to the fault of the workman. The proposition to compensate in all cases regardless of fault is logically contingent upon the workman paying his share. The employer's share represents those injuries which are the result of the fault of the employer or his agents or of the inherent hazard of the occupation. The workman's share represents those injuries which are due to the fault of the workman.

There is of course no question that a very large number of accidents are attributable to neither the fault of the employer nor the intrinsic hazard of the industry. The only question that can arise is as to the relative proportions. The following figures are given from the statistics of Germany:[3]

Employers' fault	17⅓ per cent.
Workers' fault	29⅔ per cent.
Employers' and Workers' fault	10 per cent.
Hazard of industry	43 per cent.

[1] Rep. Ohio Com., Part II, 13; Interim Rep. Ont. Com., 440.
[2] For further argument, see Rep. Ohio Com., Pt. II, 319; S. & E., 55.
[3] S. & E., 55.

Accident statistics of industries for the three years, 1887, 1897, and 1907 under German law[1] give the following figures:

	1887. %	1897. %	1907. (46,000 Accidents). %
By fault of employer	20.47	17.30	16.81
By fault of employee	26.56	29.74	28.89
By fault of both parties	8.01	10.14	9.94
Due to negligence of the parties	55.04	57.18	55.64
Due to inevitable risks of the industries and other causes	44.96	42.82	44.36
	100.00	100.00	100.00

"An investigation by Crystal Eastman, a trained student of this problem, of 377 fatal accidents in the Pittsburg, Pennsylvania district, classified the responsibility as follows: Causes attributable solely to employers or those who represented them, 29.97 per cent.; causes attributed solely to those killed, or their fellow workmen, 27.85 per cent.; causes attributed to both the above classes 16.91 per cent., causes attributed to neither of the above classes 26.27 per cent.[2]

The principle of contribution may as above indicated be embodied in a number of ways. The most direct method is that of collecting from the workman a proportion of the insurance premium. This is practicable only by having the employer pay the whole premium and deduct the proper amount from the wages of the workman. Another method is to interpose a considerable "waiting period" between the occurence of the injury and the beginning of compensation payments, thus leaving workmen to bear minor injuries either individually or through collective first aid or sickness funds. A third method is by reduction of the scale of compensation, leaving workmen to bear individually a greater portion of the burden of all injuries.

It is submitted that the last of these three methods is the least satisfactory.[3] It has been urged that so long as the workman is not compensated up to the full amount of the loss of earning capacity he does in fact contribute to the extent of the difference between the full earning capacity and the basis of compensation. But the reasons for fixing the basis of compensation at one-half and two-thirds the lost earning power are not connected with the question of contribution. For obvious reasons it would not be expedient to hold out to a workman an undiminished income as the result of disablement. If contribution were the only consideration it is submitted that it would be better to pay full compensation with contribution than partial compensation without contribution.

There are three answers to the argument that the difference between the basis of compensation and full earnings constitutes a sufficient contribution from the workman. In the first place the 100 per cent. "earning capacity" of the workman is usually based arbitrarily upon the wages which the workman was receiving at the time of the injury. But if the workman had not been injured there is no human probability that he would have earned full wages to the time of his

[1] Rep. Fed. Com. U.S., 732. See also Rep. Ohio State Bar. Ass'n. Vol. XXXII., p. 100; Rep. Ohio Com., Pt. I., p. xxix.

[2] For further reference to questions of fault, see Interim Rep. Ont. Com., 314 et seq., 353, et seq.; Rep. Ill. Com., 36, 79; Bulletin 74 U.S. Bur. Lab., 120; Bulletin U.S. Bur. Lab., No. 92, pp. 2, 3, 60, 65.

[3] See S. & E., 56.

death, so that the workman's actual loss cannot be reckoned upon a 100 per cent. basis. In the second place the compensation would place the workman beyond further contingency of loss of earning capacity by reason of injury from other causes or of sickness. The compensation would constitute an assured income not subject to contingencies of sickness, old age, or unemployment and would render insurance against these unnecessary.[1] In the third place the workman is being paid while not producing. Compensation cannot be put on the same basis as wages. Wages are the price paid for service actually rendered. A system which would place the non-productive individual by the accident of incapacity on the same plane as the productive workman would be an economic anomaly. As to this phase of the subject Dr. Zacher has said: "The limitations of the pension for complete industrial incapacity to two-thirds of the annual earnings, as in the case of most government pensions, is justified by the fact that the time which every workman unavoidably loses through unemployment and the cost of working clothes, tools, etc., must be deducted and that injuries caused by the workman's own fault are compensated with the rest."[2]

A much more equitable and at the same time more salutary method of contribution is through a "waiting period" immediately following the occurrence of the injury, during which period no compensation is paid. One purpose of a waiting period is the prevention of simulation and malingering. These evils doubtless exist in every system of workmen's compensation,[3] and one of the great problems is to reduce them to a minimum. The elimination of simulation is important, not only in the interest of economy but because of the demoralizing effect produced upon the working class and the stigma thrown upon the whole system by successful imposition. Accordingly every system of workmen's compensation withholds compensation for trifling injuries whose effects do not last beyond a week or two. By this means a considerable saving of administrative work is effected and simulation prevented in the form most readily practicable.[4]

The danger in fixing a waiting period as a form of contribution is that its function as such is liable to be disregarded or forgotten in favor of its function as a preventive of simulation. And arguments are very likely to be advanced against the "injustice" of withholding compensation from workmen for so long a period. So in England, even before Mr. Chamberlain's Bill passed the House the period of three weeks was reduced to two weeks. In 1906, in spite of the recommendations of the Special Parliamentary Committee against it, the period was further reduced to one week with provision that where the injury incapacitated the workman for more than two weeks, compensation should commence from the beginning. In the discussion of the amendments the propriety of the workman's bearing some share of the accidents was apparently entirely lost sight of and the only consideration was the influence of the provision upon malingering and simulation.

A very satisfactory solution of the problem of a waiting period which would supply at the same time an avenue of contribution, a check upon simulation, prompt and adequate surgical and medical aid and an inducement to co-operation between employer and workman was suggested in the draft Act submitted by the investigating commission of the State of Washington. This was a first aid fund

[1] Interim Rep. Ont. Com., 327.

[2] Handwörterbuch der Staatswissenschaften, Vol. VIII., p. 65, Jena, 1911.

[3] Bulletin des Assurances Sociales, 1908, No. 5, 201; Rep. Fed. Com. U.S., 1432; La France Judiciare, Mar. 12, p. 35; VIII, Congress des Assurances Sociales, 138, 790.

[4] S. & E., 290; Rep. Fed. Com. U.S., 84; Journal of Insurance, Institute of London, 1909-10, p. 59; F. & D., 143, Cd. 2208, p. 75.

which would fill up the gap left by the waiting period and provide a "buffer" fund out of which hospital and surgical expenses would be paid where necessary, as well as compensation. The principle of this fund was in a measure that of the German sickness fund, but instead of thirteen it was to cover only three weeks. The fund was to have been raised by equal contributions from employers and employees, the employees' portion to be deducted from wages. The scheme was supported by the labour interests but some opposition was encountered from employers in less hazardous occupations who objected to paying at the same rate as that of the more hazardous industries. In the haste of the legislative session it was found impossible to reform the scheme and it was dropped from the Act with a view to its later incorporation by way of amendment. In a report issued by the Industrial Insurance Commission which is in charge of the administration of the Act, covering the first few months of operation, the immediate creation of such a fund is strongly urged upon the legislature.[1]

The equitable proportion of the cost of insurance to be borne by workmen would, according to the statistics above shown, be from 25 to 30 per cent. If it is decided that the contribution shall be direct it is submitted that the Act should name a definite proportion with a direction to the employer to deduct the proper amount at stated periods from the wages of the workman. If the first aid fund plan is adopted the contributions should be so arranged that the workman would bear his proper share of the total cost both of first-aid and compensation proper. If sickness insurance or other benefits were to be included in the scope of the society, the proportion of contributions could be fixed accordingly.

With reference to the portion to be borne by the State it is submitted that this should cover the cost of administering the system so that practically the whole of the contributions to the fund should go to the relief of the injured workmen and their dependents.[2] The withdrawal from the courts of the work of adjudication will mean a considerable saving in the expense of administration of justice already borne by the province. The provision for the needs of injured workmen and their dependents will also relieve to a very large extent the burden now borne by the general public by way of poor relief and charity.[3] In most modern compensation systems these features of workmen's compensation are recognized and the state itself bears a portion of the expense of the system. In some systems, as for instance, that of Switzerland, the state in fact contributes a definite proportion of the insurance premiums.

Eighth: The system of relief should be such as to secure in its administration a maximum of efficiency and economy, and as large a proportion as possible of the money contributed should be actually paid out in compensation.

This principle which is of the most obvious importance is in many jurisdictions the most consistently ignored. There are now available abundant statistics to demonstrate the relative efficiency of the different systems of compensation in performing their intended functions. The German collective system represents an efficiency of 87.2 per cent., only 12.08 per cent. being taken up in expenses of administration.[4] Other European systems range from 80 to 90 per cent. In the

[1] See post, p. 81.
[2] Rep. Mich. Com., 134; Rep. Ohio Com., Pt. II., p. 316.
[3] Rep. Ohio State Bar. Ass'n. XXXII., p. 123; Rep. N.Y. Com., 31; Rep. Ohio Com., Pt. II., p. 208.
[4] S. & E., 47.

State of Washington the cost of administration for the first six months, which is naturally heavier than it will be for the future, has been well within 15 per cent. of the compensation payments.

The individual liability systems on the other hand show a very large proportion of waste in conveying the money contributed by the employer to injured workmen and their dependents.[1] Recent statistics of the Board of Trade in England giving figures of the business of liability insurance companies indicate the administrative waste of the English system and show that while these companies have been operating at a net loss, a very large proportion of the money paid in by the liability insurance premiums has been consumed in expenses of litigation and commissions on business.[2] Because of circuity of liability under the English systems and the method of adjustment of claims, there is a further waste which, it is calculated, brings the efficiency of the English Act down to the neighborhood of 50 per cent.

Statistics gathered by various commissions in the United States show that in that country less than twenty-five per cent. of the money paid in liability insurance premiums actually reaches the injured workman or his dependents, the rest being consumed in expenses of litigation, soliciting business, profits and expenses of administration.[3] It is fair to assume that liability insurance in this province would show much the same percentage of waste as in the United States, and no system of individual liability could probably be expected to produce much better results than those shown under the English Act.[4]

The aggregate pay-roll represented by the Canadian Manufacturers' Association in Ontario is about $150,000,000. On the basis of two per cent. the insurance premiums of the members of the Association would amount to $3,000,000. There is every reason to believe that under an individual liability system one-half of this amount or $1,500,000 would be wasted for members of the Association alone, without accounting for manufacturers who are not members of the Association or for employers in other occupations. The greater part of this money can be saved either for employers or for workmen by the elimination of the circuitous liability involved in the individual liability system.

Ninth: The procedure for the adjustment of claims should be as far as possible dissociated from the regular courts of law. It should be simple, and calculated to involve in its operation a minimum of friction between employer and employee.

The largest item in the expense of the present system, and a very considerable item in all individual liability systems, is the expense connected with the adjustment of claims. The larger portion of this expense consists of course of legal fees. In a system where compensation depends upon the determination of private rights as between employer and employee,—and this is indispensible where the right of the employee depends upon proof of fault—a resort to the courts, if not inevitable, is avoidable only with great difficulty. But in a system where the

[1] See post, p. 106.

[2] See F. & D., 46; "Up to the present time expenses of management, including litigation and adjustment, have absorbed one-half the premiums. The industries of Great Britain are thus paying in premiums, if adjustments are fair, about twice the net cost, and, if not fair, they are paying in expenses—which, under the German system, have been made unnecessary—many times what would enable all adjustments to be fair, and even liberal."

[3] Rep. Ill. Com., 37; Rep. Fed. Com. U.S., 43; See post, p. 105.

[4] See post, p. 106.

right to recover depends largely or entirely upon the establishment of a claim to a fund there is no necessity for the formalities, and no excuse for the expense, of an ordinary legal action.

In some jurisdictions the method of arbitration has been resorted to. This method, however, maintains the notion of a contest between the employer and the employee with all the disadvantages attendant upon such a notion. In addition to this, the court, being an amateur one, has not the experience or facilities which a regular body would have of dealing with the various phases that arise.[1]

Another important consideration in determining the method of adjustment is the desirability of uniformity. Under a method of arbitration, and even under a system of judges or other legal tribunals, there is certain to be a great diversity of treatment, even though an effort be made to adhere to lines of precedent. In the light of the criticisms of Dr. Friedensburg[2] it is apparent also that a system of local judges governed by precedent may give rise to very grave abuses.

The method pointed to by all careful observers and adopted by many jurisdictions is that of a special board or tribunal. Such a board should of course be vested with full jurisdiction over questions of fact, and the procedure should be rendered as simple and direct as possible. It is submitted that in the large majority of cases a full and satisfactory adjustment could be made upon written reports supported by affidavit. A competent board of officials could, upon reports of the physicians in charge, the employer and the injured person, adjust most cases in a manner vastly more satisfactory than would be possible through the ordinary machinery of the courts. This is the method adopted by the Washington Board and it is said to work very satisfactorily. It may be added that a wrong decision would, under such a system as that proposed, not be a very serious matter as it could be reviewed at any time and set right. It would not be a matter of settling once and for all a contest over legal rights as between two parties.

Tenth: The system of compensation should be directly associated with a system of inspection with a view to the prevention of accidents and a system of prompt and expert medical attendance to mitigate the effect of the injuries.

This principle is really a corollary of the first principle, which embodies the conservation phase of the subject of workmen's compensation. The collective insurance systems tend almost automatically to produce a system of expert inspection. This is of course the principal reason for the advanced position of Germany in the matter of accident prevention.[3] Each insurance association being confined to some particular line of industry there is not only the incentive to, but the facility for, a system of highly developed factory inspection and the management of the associations is in the hands of those best qualified to superintend and direct preventive activities.

The individual liability systems provide no corresponding incentive or facilities. Each insurance company bids for all classes of business. Such inspection as these companies conduct cannot in the nature of things be as thorough as in the specialized systems of collective insurance, nor has the insurance company the same intimate interest in the welfare of the workman nor the same appreciation of

[1] As to litigation under English Act, see 24th Rep. U.S. Bur. Lab., 1512; see Rep. Ill. Com. 38.

[2] See post, p. 129.

[3] S. & E., 100, 128.

conditions under which he works as an association of employers would have. The insurance company has no direct facilities for standardizing machinery nor any means of enforcing regulations except by a threat to decline or cancel the policy, the coercive effect of which would be very slight. There is every reason in fact why the factory inspection system should be closely co-ordinated with, if not merged in, the industrial insurance system. The inspection would then be induced from within instead of imposed from without. It would be sanctioned by all the weight of co-operative endeavor as well as of substantive law.

Another large field of conservation is open in the direction of expert medical attendance for the purpose of preserving as far as possible the industrial usefulness of the workman. Excellent results in this line of activity are found in Germany. "Authorities all agree and are very emphatic on the point, that immediate attention to all injuries saves much suffering, many lives and limbs and a great deal of money. This principle has been recognized by progressive employers and insurance companies in the United States, but prompt relief is still lacking in many instances. Under the German law every injured worker and his dependants are taken care of automatically and immediately after the occurrence of the accident, on the theory that from a human as well as an economic point of view it is most important to bring back every worker from the position of a consuming member of society to that of a producing member."[1] "The Bavarian Building Industries Employers' Association established to its own satisfaction that the expenditure of approximately $8,000 in prompt and expert medical attention to it injured workmen, saved approximately $160,000 in compensation expenses. A Vienna insurance institution figured the net savings in compensation due to the establishment of an ambulance and first aid medical station to be $27,000 in nine months. An engine driver 35 years old was scalded during a wreck. The attending general physician thought the amputation of the left arm necessary. The employers' association succeeded through specialists' treatment at its own hospital in saving the arm and bringing it back to normal strength. At the time of accident the driver earned $330 per annum—a few years later $425 per annum, which proves that his earning capacity was unimpaired. The amputation of the arm would have meant a cripple with less than half earning capacity, and a life compensation of $150 annually, equal to $8,000 or $10,000 total expenses to the Employers' Mutual Insurance Association. We might quote fifty similar cases showing the wonderful results of conserving the best resources of the nation, the self-respect and earning capacity of her workers, by means of prompt and proper medical attention."[2]

For providing facilities and organization for this latter class of conservation work no better avenue appears to be open than the proposal made by the commission which drafted the Washington Act, namely of a separate "first aid fund." Of this proposal of the drafting commission, the report issued by the workmen's compensation commission of the State of Washington in February, 1912, speaks as follows: "The burning issue of the industrial situation to-day is the need of a first-aid fund. When the Act was discussed in the legislature it already bore a provision for first-aid, which was stricken out at the urgent request of the manufacturers, who declared that they desired to establish their own first aid funds; it was also felt that the law, revolutionary as it was in a great many respects, would prove to be of sufficient burden without the addition of a first-

[1] See Rep. Fed. Com. U.S., 686.
[2] See S. & E., 51.
[3] See post, p. 117.

aid provision. The whole matter was therefore stricken out and the schedules designed to accompany that provision were allowed to remain as they are.....
.....It will be seen that the law provides simply for the bare necessities of life during disability or after the death of a workman, and the expense of doctor's bills, hospital dues, etc., is absolutely unprovided for. It is clearly up to the employers and employees of the State to give this question of first-aid careful and serious consideration in as much as it constitutes, in the opinion of the commission, the most imminent problem in connection with the administration of industrial insurance in this State to-day."[1]

It is submitted that in the administration of first-aid funds a different principle might be adopted from that in the administration of the compensation fund proper. It might be well to afford facilities for placing the administration of first aid funds, under proper supervision, in the hands of such benefit societies as now exist or others which might be created. It is submitted that it would be advisable to localize as far as possible the administration of these funds and that possibly a system might be worked out whereby benefit societies would be created covering either single industries or groups of related industries in a particular geographic district.[2] Such variations might be allowed in their constitutions as conditions warranted and where no such society existed the central administrative body would have very little trouble in handling the funds.

Eleventh: The system should be such as to secure the most liberal measure of relief possible without undue strain upon industry.

This principle is enunciated as a basis for a discussion of the cost of compensation under the various types of compensation systems and of the different actuarial methods in fixing rates.

The immediate increase in the expense to employers consequent upon the introduction of a compensation system is, of course, the most serious economic factor from the employers' standpoint. In an industry running on a small margin of profit an increase of even two per cent. on the pay-roll may make the difference between success and failure. In addition to the immediate advantage to the workman in having provision made for loss of earning capacity and in addition to the immediate disadvantage to the employer in having his profits reduced, it is necessary to consider a number of consequences flowing from the imposition of an undue burden of compensation.

If the burden placed upon employers in any one Province exceeds that upon employers in other Provinces or other countries whose products compete in the market with the products of that Province, the employers of that Province are to the extent of the excess at a disadvantage which will necessarily be reflected either upon the price of the product or upon the demand for the product. In either case the result is a loss which falls directly upon the employer and which is shared more or less directly by the employee. Apart, therefore, from the immediate advantage to the workman and disadvantage to the employer it is important that the schedule of compensation should not be substantially greater than that of other provinces of Canada and other jurisdictions whose products compete with those of our industries.[3]

[1] See also statement of Mr. M. M. Dawson, Interim Rep. Ont. Com., 442.
[2] See Interim Rep. Ont. Com., 195.
[3] See Rep. Fed. Com. U.S., 29, 89.

The increase in expense incident to the introduction of a workmen's compensation Act is indicated by the following tables of figures showing the increase in liability insurance rates after the introduction of the Acts in England, the Provinces of British Columbia and Quebec, and the States of New York and Pennsylvania.[1]

ENGLAND.

——	1907, Under Employers' Liability Law.		1908. Under Workmen's Compensation Law.*	
	$ c.	$ c.	$ c.	$ c.
Bakeries	0 07½	0 12½	.....	1 12½
Brickmaking	0 10	0 12½	.....	1 50
Carpentry	0 10	0 15	1 00	1 62½
Blast Furnaces	0 10	0 20	.....	1 50
Glass Factories	.....	0 10	.....	0 85
Nail Factories	0 10	0 20	.....	1 25
Quarries	0 15	0 20	.....	2 25
Rolling Mills	0 10	0 20	1 50	1 87½
Tanneries	.....	0 10	.....	1 25

* It should be remembered that these rates have been several times raised since, and it is now absolutely necessary to make another general advance.

PROVINCE OF BRITISH COLUMBIA.

——	Under Liability Law.		Under Workmen's Compensation (English system).	
	$ c.	$ c.	$ c.	$ c.
Bakeries	.....	0 17	.....	0 89
Brickmaking	.....	0 42	.....	1 26
Carpentry	.....	1 50	.....	2 00
Blast Furnaces	.....	0 49	.....	1 36
Glass Factories	0 15	0 42	0 88	1 26
Nail Factories	.....	0 42	.....	1 44
Quarries (stone)	.....	2 10	.....	4 06
Rolling Mills	.....	0 52	.....	2 17
Tanneries	.....	0 23	.....	1 13

PROVINCE OF QUEBEC.

——	Under Liability Law.		Under Workmen's Compensation (English system).	
	$ c.	$ c.	$ c.	$ c.
Bakeries	.....	0 17	.....	1 37
Brickmaking	.....	0 42	.....	2 10
Carpentry	.....	1 50	.....	5 00
Blast Furnaces	.....	0 49	.....	3 90
Glass Factories	0 15	0 42	1 47	2 10
Nail Factories	.....	0 42	.....	2 40
Quarries (stone)	.....	2 10	.....	6 25
Rolling Mills	.....	0 52	.....	3 61
Tanneries	.....	0 23	.....	1 73

[1] Taken from brief of Miles M. Dawson, Rep. Fed. Com. U.S., 282.

STATE OF NEW YORK.

The following comparison shows the rates of employers' liability insurance before and after the Workmen's Compensation Act of 1909, since declared unconstitutional:

——	Employers' Liability Law.	Workmen's Compensation.
	$ c.	$ c.
Carpentry	1 75	5 00
Bridge Building (iron)	4 50	12 50
Quarries (stone)	2 00	7 50
Railways (steam)	2 50	10 00
Tunnelling	4 50	12 50
House-smithing	2 00	6-25

The following rates are taken from the schedule recently quoted by insurance companies under the New Jersey Act:

	$ c.	$ c.
Bakeries	1 25 to	1 50
Brickmaking	2 00 to	3 00
Carpentry	2 00 to	3 75
Blast Furnaces	4 00 to	5 00
Glass Factories	1 25 to	2 00
Nail Factories	2 00 to	0 00
Quarries	5 00 to	6 50
Rolling Mills	3 00 to	5 25

In comparing these rates consideration must, of course, be given to the relative benefits under the respective systems. Thus a recent report has shown that in England the average compensation in fatal accidents has been about $750. What would the rate have been to give a benefit corresponding to that in the State of Washington![1]

The probable increase in employers' liability rates which would result upon the introduction in Ontario of an Act giving benefits equivalent to those under the English Act has been conservatively estimated at 400 per cent.[2] and the rate of increase which would follow the introduction of a scale of benefits like that of the State of Washington would be much larger. It must be noted also that recent statistics show the absolute necessity of an increase in the rates in England.[3] An increase in expense to the employer such as that indicated above would involve a very serious shock to the industries of the Province; and the proposition of introducing a system involving this expense would meet with great opposition.

Under the current cost plan of insurance outlined below[4] a collective or state insurance system could be established at an immediate annual cost not greater than that of the present liability insurance rates.[5] Under this plan instead of capitalizing the periodical payments due to the injured workman or his dependents and setting aside a lump sum to provide for these payments, only the current cost of meeting the yearly payment would be assessed each year with a small margin for an

[1] See post, p. 99.
[2] See statement of Chas. H. Neely, Interim Rep. Ont. Com., 233.
[3] See post, p. 106.
[4] See post, p. 108.
[5] See Rep. Fed. Com. U.S., 102.

emergency reserve fund. The annual assessments would increase as the number of dependants increased and the annual rate would only reach its maximum after a period of twenty-five or thirty years. This was the actuarial plan adopted in the German system. It represents a minimum strain upon present industry and does not involve the shock to the economic system which is incidental to a system where the cost of compensation is capitalized at the time of the injury.[1]

Under a system of individual liability with its attendant system of employers' liability insurance it is, of course, necessary also to capitalize the compensation, and one of the defects of the English system is that it produces a maximum strain upon the industry by withholding from active industrial operations an immense amount of capital which is held by insurance and trust companies to meet future compensation payments or is deposited in trust accounts of judges to meet future compensation payments.[2] In fact one of the complaints against the present German system is that the margin of approximately 9½ per cent. of the premium rate regularly set aside for a reserve fund is too large and that the capital should be left in active use in the industry,[3] but under a system of trade associations, such as that of Germany, the accumulation of a reserve fund is, of course, more of a necessity than it would be under a system controlled and administered by the state itself.

The individual liability system also on account of its wastefulness necessitates the payment of insurance premiums approximately double those required to confer corresponding benefits under a collective system. The question of the amount of benefit to be allowed by a compensation Act will, therefore, depend directly and very largely upon the nature of the system adopted.

Thus the amount of compensation to be paid under a compensation Act will be influenced largely by three considerations: First, whether an individual liability or a collective or state liability system is adopted; second, whether the capitalized or the current cost plan of insurance is adopted, and third, whether the workmen contribute toward the insurance fund or not. Subject to these contingencies and within the limits imposed by the ability of the business to bear the expenses of compensation payments it ought, of course, to afford as large a measure of relief as possible to the workman without offering inducements to fraud.

The usual basis for computing the amount of compensation is upon the diminution of earning capacity. Where the result of the injury is total incapacity a percentage of the weekly, monthly or yearly wage is paid; and where the incapacity is partial a similar percentage is allowed upon the impairment. This basis appears most just as well as convenient and presents the least temptation for malingering and fraud. Some systems have adopted arbitrary schedules of values for the loss of different portions or functions of the body, allowing the payment of so much for a finger, so much for an eye and the like.[4] But the generally accepted basis of compensation is incompatible with such a practice. The pervading idea of modern systems is to supply or supplement the income destroyed or impaired by reason of the injury. The compensation is given by way of making up for lost earning power rather than by way of satisfaction or retribution.[5] Two important consequences follow upon this view of compensation. It follows in the first place that the compensation should cease with the necessity for it. If, for instance, a workman is

[1] See statement of Miles M. Dawson, Rep. Fed. Com. U.S., 100 *et seq.*, and brief ib, pp. 270, 276.

[2] See F. & D., 23; S. & E., 206; Rep. Fed. Com. U.S., 676.

[3] See S. & E., 115.

[4] See Rep. Fed. Com. U.S., 783.

[5] See ante, p. 65; see also F. & D., 9, and statement of J. A. Emery, Rep. Fed. Com. U.S., 1088.

found after an injury to be in a position to earn an income equal to that enjoyed before the injury he would not be entitled under this view to a continuance of his compensation. In many cases an injury may be the occasion of a change of occupation by which earning power is increased, and in such cases payment should entirely cease. If a young man by reason of the loss of an arm should abandon an occupation involving manual labour and enter a professional occupation, earning a higher remuneration than he enjoyed before, there is no reason why he should remain any longer a pensioner upon the insurance fund. In some systems indeed the recipient is in such cases required, when he is in a position to do so, to refund a portion of the payments made to him during incapacity.[1] It is quite possible that in many cases it would be more convenient and less expensive to settle for minor injuries on a lump sum basis; but consideration of occasional convenience may well give way to the expediency of maintaining the general principle.[2] Another result of this view is that in case of death by injury, compensation is paid only to actual dependents. Where no dependency exists there is no reason for making the system a source of profit because of the existence of family relationship more or less remote. The occurrence of an injury should not be the occasion for the enrichment of persons not dependent upon the earnings of the injured workman. This principle is in accord with the common law rule and with the statutes of the Province. The above observations are, of course, applicable only to cases of deprivation of income and do not apply to such items as medical or funeral expenses.

It is submitted, therefore, that the basis of compensation ought to be a fixed proportion of the impairment of earning capacity, with a certain fixed minimum. Under the Act of the State of Washington the payment in cases of total disability is a pension of from $20 to $35 per month according to the number of dependants. Such a fixed sum involves the anomaly that a workman or his dependents may receive as compensation an income equal to or greater than that enjoyed before the injury. At the same time it must be remembered that this rate of compensation represents in the case of each capital injury, i.e., total incapacity or death, a capital sum of $4,000 which is on a higher scale than has probably been contemplated by anyone in this Province. It may be found that a scale of 50 per cent. of wages would bring the capital amount even higher than $4,000.

It is submitted, therefore, that while compensation based upon a percentage of wages appears most reasonable and desirable careful consideration should be given to the question of the capital amount represented by the scale of compensation, and the fixing of a reasonable maximum capital sum.

It is submitted, also, that in the case of permanent partial disability the compensation should be a periodical payment on the basis of impairment of earning capacity. This payment should be adjusted from time to time and should be entirely withdrawn when it is found that the workman is in a position to earn as much as he did before the injury. Where there are no real dependents no compensation should be allowed beyond medical and funeral expenses.

Twelfth: *The system should be such as to afford some promise of permanency.*

If the experience of other jurisdictions proves anything, it is that no system of individual employers' liability affords a permanent solution of the problem of workmen's compensation.[3] The English Act is regarded by all observers as repre-

[1] See 24th Rep. U.S., Bur. Lab., 2022.
[2] See 24th Rep. U.S., Bur. Lab., 40.
[3] For historical sketch, see Rep. Fed. Com. U.S., pp. 110, 111; see also F. & D., 18.

senting merely a stage in the development of a satisfactory compensation system.[1] The present demand in England for a compulsory insurance system[2] was anticipated in the report of the Departmental Committee of 1904.[3] In the Province of Manitoba, where an Act along the lines of the English Act was adopted in 1909, there is already a demand for a compulsory insurance system. Similar conditions exist in other jurisdictions where individual liability systems have been introduced.

It may be pointed out further that the collective system of Germany promises to develop into something more nearly approaching a state insurance system. The most cogent of the few constructive criticisms of Dr. Friedensburg points strongly to an ultimate assimilation of the various mutual associations of Germany under closer state control.[4] In Sweden, likewise, where there is a system of state insurance with the option of insuring in private companies, the state scheme has been gradually absorbing the business of its competitors owing to their inability to compete with it.[5]

Speaking generally of the systems of Europe Messrs. Frankel & Dawson say: "There is now observable a strong disposition to compel employers to insure and either to foster the establishment of a state insurance department as a monoply or else to create other obligatory insurance institutions conducted under the supervision of the state."[6]

It may be argued that as a collective or state insurance system appears to be the ultimate solution there should be no objection to the development of such a system through the stage of an employers' liability system. The answer to this is that an employers' liability system involves two large economic disturbances, while the introduction of a collective or state insurance system need involve only one lesser disturbance. The introduction of an individual liability system which must necessarily be upon a capitalized plan would be in itself, as has been pointed out, a very direct and severe strain upon present industry. In addition to this it would involve the creation of an immense employers' liability insurance interest which must be wiped out upon the introduction of a collective or state system, and which, in the meantime would stand in the way of the introduction of a collective or state system.[7] Liability insurance companies recognizing the instability of their business must necessarily provide against it, and this provision can be made only by way of an increase of the burden upon industry. In the meantime, also, while the individual liability system is in operation, it entails a continuous waste which is in itself a serious drain upon industry. A state or collective system on the other hand could, as has been pointed out, be introduced with a minimum shock to economic conditions, and there is every reason to anticipate for such a system a permanency which an individual liability system fails to promise.

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[1] See 31 Can. L. T., 858; Cd. 2208, p. 123; extract post, p. 96; 24th Rep. U.S. Bur. Lab., 1498; Rep. Fed. Com. U.S., 943.

[2] Rep. Fed. Com. U.S., 113, 117, also Interim Rep. Ont. Com., 174; F. & D., 46.

[3] See Cd. 2208, pp. 117, 121.

[4] Praxis der deutschen Arbeiterversicherung, 48; Friedensburg (Gray), 62. Workingmen's insurance can be truly beneficial in its operation only when, free from all exaggeration and excess, and especially from conscious or unconscious subservience to the lower classes, it works as an institution of the State, as impartial as every other kindred institution."

[5] F. & D., 38.

[6] See F. & D., 138.

[7] See Rep. Fed. Com. U.S., 113.

ANALYSIS OF COMPENSATION SYSTEMS.

Classification of Compensation Systems.

It has been the practice with writers upon the subject of workmen's compensation to classify the systems of the different jurisdictions with reference to the type of insurance established under, or evoked by, the system.[1] Thus the systems have been classified under such heads as voluntary insurance, compulsory insurance, compulsory mutual insurance, compulsory state insurance, state adjustment with free insurance, free insurance with state competition, free insurance with state guarantee, and the like. These designations are, no doubt, descriptive and they are certainly less disingenuous than the very ingenious nomenclature recently employed by representatives of the liability insurance interests in discussing the subject,[2] but they do not involve a recognition of the vital distinctions which form the real basis of classification. The real distinction is not between the classes of insurance but in the incidence of the initial liability. Where the liability to compensate the workman is thrown directly upon the individual employer the obligations and relations created are of a nature radically different from those which arise where the liability is thrown upon employers collectively, or where the liability is assumed by the state itself. And the essential character of every system, in theory and in practice, is determined by the question which of the three principles is adopted, individual liability, collective liability or state liability. Of the three the two last are the most nearly akin and there would be some reasons for classifying the different systems under two heads only, namely, individual liability and collective liability, the state liability system being considered merely a more widely diffused form of collective liability. There is, however, an important distinction between a system such as that of Germany where the state uses its compulsive power merely for the purpose of organization and a system such as that of the State of Washington where the state itself assumes the burden as well as the administration of the compensation. In practice it is, of course, possible to operate a state insurance system in such a manner as to render it to all intents and purposes a collective liability system. And on the other hand there is no doubt that a collective liability system under state compulsion secures by reason of the participation of the state, a stability which places it in many respects on a par with a state liability system.[3]

It should be observed also that the mere creation of state insurance facilities does not fix the character of the system as a state liability system. Thus in some jurisdictions the state competes on more or less equal terms with private insurance schemes for the patronage of employers insuring their individual liability.[4]

Such a system might be described as a state insurance system, but it is not a state liability system in the sense here employed.

It may be well to define further and distinguish the three classes of compensation systems, and to enumerate their respective advantages and disadvantages.

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[1] See Cd. 2458, p. 3; Bulletin 90, U.S. Bur. Lab., 720.

[2] In a memorandum submitted before the Federal Commission, U.S., by "Certain law members of the Committee of the Official Civic Federation," the individual liability system, of which the English Act is a type, was spoken of as "simple compulsory compensation," and other systems are referred to as more or less elaborate and complex developments of this type, while the fact is, as has been shown, that individual liability plan is most indirect in its operation and complex in its relations and results. See Rep. Fed. Com. U.S., 433.

[3] See, however, letter of Mr. Harold Preston, post, p. 122.

[4] *E.g.*, Sweden; see F. & D., 38.

Individual Liability.

Under an individual liability system the obligation to compensate the workman is, as has been pointed out, thrown directly upon the individual employer as an element of the relationship of employer and employee. The law implies a term in every contract by which the employer assumes an obligation more or less extensive to indemnify the workman for injuries received in the course of, or in connection with, the employment. The injured employee looks for relief to his employer, the latter being thus constituted an individual insurer of the workman against accident. Employers under such a system are, of course, permitted, and in fact encouraged, to insure themselves against their liability by some form of insurance. The contract of insurance in such cases, however, assumes the form of an undertaking on the part of the insurance company to indemnify, not the workman against loss by injury, but the employer against loss through the enforcement of the workman's claim against him as employer. The circuity of liability thus established involves many important consequences which will be presently noted.

The chief exponent and type of the individual liability system is the English Workmen's Compensation Act. There can be little doubt that the character of this Act was determined largely by the absence in England of facilities in the form of trade associations corresponding to those which were taken advantage of by Bismarck in the German legislation of 1884. And it may be assumed also, that the individualistic genius of the British nation and the reluctance to accept Socialistic doctrines and bureaucratic methods had their influence. While the English Act was confessedly intended to embody the principles of the German system it was hoped to render the principles more palatable by avoiding the use of compulsion. It was expected that the self-interest of the employer would supply the necessary incentive to take out insurance.[1] The essential character of the insurance thus induced, and the essential departure from the German collective liability principle, were, perhaps, not appreciated. It is needless to say that the results anticipated of the English Act have not been realized and that a large proportion of employers in England, and chiefly among those who need it most carry no insurance whatever.[2] There is little doubt, also, that it was hoped under the English Act to induce the establishment of associations similar to those of Germany but on a voluntary instead of a compulsory basis.[3] This hope has been entirely dispelled and the tendency is rather towards the extinction of those schemes which existed before the passing of the Act.[4]

The English Act is in essence an employers' liability act, and not a workmen's compensation act in the modern sense of the term.[5] By throwing upon the individual employer a liability for damage not due to his fault it violates elementary principles of justice. It is not an accidental misfortune that the American constitutions render it difficult, if not impossible, to enact an Act of the English type. The constitutional provisions which create the difficulty are in reality expressive of principles of natural justice. A burden which may with justice be placed upon a group or class may be entirely unjust when placed upon an individual.[6]

[1] See Rep. Fed. Com. U. S., 111.
[2] See Cd. 2208, p. 43.
[3] See Rep. Fed. Com. U. S., 112.
[4] See Cd. 2208, p. 23; Rep. Fed. Com. U. S., 112; F. & D., 27, 28, 46; 24th Rep. U. S. Bur. Lab., 1531, 1579.
[5] See Rep. Fed. Com. U. S., 110, 111, 270; St. Louis Pamphlet, 11.
[6] See Rep. Fed. Com. U. S., 69.

The report of the Commission of the State of Washington speaks of the individual liability scheme as follows: "Other Commissions have seemed to favor the placing of the liability directly upon the employer, that is to say they favor fixing a schedule of compensation to injured workmen and their families, and providing that in each case each employer shall pay the stated sum to the injured employee, or in case of his death, to his family, and it is expected (in fact, it is the case in New York, where an optional statute was this year enacted) that employers will then write employers' liability insurance to protect them in such cases, and thereby distribute the burden. This plan has not met with the favor of your Commission for the reason that it still retains the elements of waste and litigation. It seems to us better, for both employer and employee, that all the money that employers pay out on account of such cases shall, every cent of it, go to the injured workman.[1]

One very serious difficulty in connection with a system of individual employers' liability is as already pointed out, the danger of the employer's becoming insolvent after a period of years and after the business has acquired a list of compensation pensioners who are being supported out of its pay-roll. In order to meet this condition the English Act of 1897 gave the workman a first charge on any sum due from the insurance company. The Act of 1906 provides that in case of the bankruptcy of an employer his rights as against the insurance company shall rest in the workman. It needs only a moment's reflection to realize the immense complexity which such provision may give rise to. Take for example the case of a commercial company which has accumulated a number of pensioners. In case of bankruptcy or winding up the pensions could doubtless be in some way capitalized and assured to the workmen. But what is there to prevent the company from disposing of its whole assets and undertaking without going into bankruptcy? In order to prevent this it would be necessary to give the workman a preferential lien upon the assets of the company, which would follow the assets into the hands of an innocent purchaser. This again would tie up the assets of the company and prevent them from being sold, unless some scheme could be formulated for placing a reserve fund in the hands of trustees or the Government against the claims of pensioners. If such a system of liens were adopted a railway, for instance, would be unable to sell any of its rolling stock without satisfying the lien of injured workmen and their dependents. This is the fatal defect of such systems as that just adopted by the Congress of the United States. It involves one of three alternatives: either the compensation payments are subject to the danger of being cut off by a sale of the railway's assets, or the assets must be subjected to a lien, or the capitalized value of the assets must be set aside in a fund.

The defects of the individual liability system have already been indicated. They may be summarized as follows:[2]

1. An individual liability system affords no assurance of solvency.[3] It fails where and when it is most needed, namely, in the case of the smaller and more improvident classes of employers[4] and in the case of larger accidents to the larger employers.[5]

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[1] See Rep. Wash. Com., 6.

[2] See Rep. Ohio Com., Pt. I, p. 16; Rep. Mich. Com., 132, 133; Rep. Fed. Com., pp. 283, 650-5; F. & D., 17.

[3] S. & E., 2-7.

[4] See Cd. 2208, p. 112.

[5] In the ordinary policy in this country companies limit their liability on a single accident to $15,000. For additional protection higher rates are charged.

2. The individual liability system handicaps the smaller employer by throwing upon him the risk of being rendered insolvent by an accident.[1] It is on this account not adapted for extension to such occupations as farming, which is in this country usually conducted with only one or two employees.

3. An individual liability system affords very little direct incentive to prevention. The competition for business renders it impracticable to classify, and discriminate amongst, risks on the basis of relative hazard, the result being that the business is bulked and the more careful employer made to bear the insurance of the less careful.[2]

4. Because of the circuity of obligation involved in employers' liability insurance the individual liability system is extremely wasteful.[3]

5. The individual liability systems do not afford proper facilities for the administration of periodical payments. The responsibility of making these payment cannot well be assumed by the smaller individual employer. and the constant tendency of employers and insurance companies is to commute the payments for a lump sum and thus impair the efficiency of the system.[4]

6. The individual liability system creates a hardship for certain classes of workmen by militating against the employment of older and partially incapacitated workmen.[5]

7. The workmen's recourse being in each case against the individual employer every claim for compensation involves a direct contest inimical to harmonious relations.[6]

8. The individual liability system involves a violation of natural justice in throwing upon the individual employer liability for something which may not have been occasioned by his fault, but which on the contrary may have been occasioned by the person making the claim.[7]

9. Experience shows that an individual liability system cannot be permanent but must apparently sooner or later give way to a system of collective liability.[8]

10. The individual liability system gives rise to an anomalous form of insurance prejudicial in many respects to the interest of both employers and employees.[9]

11. An individual liability system cannot be conducted on the current cost or assessment plan, but requires a setting up of reserves against future periodical payments.[10]

12. The individual liability system even under simplified legal process involves an excess and unnecessary amount of litigation.[11]

Collective Liability.

Under a collective liability system the obligation to compensate the workman is thrown upon employers collectively in groups. The method of grouping varies under different systems. In Germany employers are divided into some 114 groups according to industries. In Austria the primary division of geographical, but in

[1] See Rep. Conf. Com., 19; Interim Rep. Ont. Com., 165.
[2] See F. & D., 136, 138.
[3] See Cd. 2208, 68, 86; Rep. Fed. Com. U.S., 112; F. & D., 15, 17.
[4] S. & E. 231; Cd. 2208, 39, 40; F. & D., 16.
[5] S. & E., 179, 180, 253, 254; Cd. 2208, 1904, 39; F. & D., 15, 16, 48; Mackenzie vs. Iron Trades Emp. Ass'n., 1909, Scots L. T., 505.
[6] See F. & D., 16, 17, 46; Rep. Fed. Com. U.S., 727.
[7] See ante, p. 65.
[8] See ante, p. 86.
[9] See post, p. 102.
[10] See post, p. 108.
[11] See S. & E., 207; Bevan on Workmen's Comp., 4th ed., pref., 13.

each geographical district employers are subdivided by industries. Under the Act of the State of Washington the grouping is by estimated hazards of risk. Provision is made in all these systems for levying upon employers insurance premiums according to the hazard of the employment, and out of the fund thus raised compensation is paid directly. The injured workman looks for compensation not to the individual employer but to the association or group of employers. Adjudication is in these systems merely a matter of establishing a claim upon the fund and does not involve a legal contest between the employer and the workmen.

The principle of collective liability has been embodied in a number of European systems and in some of the States of the United States. The Act recently adopted in the State of Massachusetts is evidently intended to embody the principles of the German Act and similar Acts have been introduced in Michigan and New York. The German system being the oldest and most elaborately and scientifically developed is usually cited as the type[1] but there are many variations in the application in different jurisdictions, of the basic principles of the German system. It should be observed that the German system is not a state insurance system,[2] the state participates only to the extent of compelling employers to organize. It also assists in defraying the expense of compensation. Having compelled the employers to organize the State stands aside and acts only in a supervisory capacity.[3]

It has been pointed out[4] that the Act of the State of Washington while in form a State liability Act is in reality based upon the same principles as the German system, with this variation, that instead of merely organizing the employers the State provides the machinery for administration and does not leave this to autonomous action on the part of the various groups of employers. The State does not guarantee the payment of the compensation though doubtless a practical guarantee exists in virtue of the existence of machinery for levying the cost upon employers collectively.

The collective liability systems are uniformly conceded to be the most satisfactory both in theory and in practical results. The type system, that of Germany, is the outstanding example of a successful solution of the problem of accident compensation.[5] Representatives of the liability insurance business in the United States frankly admit the excellence of the German system, and Dr. Friedensburg, whose criticisms of certain details of the German system have been given wide circulation by the liability insurance companies has declared that he would be a "blind fool" who would "fail to recognize that the blessings of the insurance system cannot be fully described even by the use of unqualified laudation."[6] The advantages of the collective liability system of compensation will readily appear by a reference to the disadvantages of the individual liability system.

1. The collective liability systems even without State support, afford a practical guarantee of solvency because of the wide incidence of the liability, the only danger being that of having the classes too small.

[1] See analysis of German system, post, p. 97.

[2] See F. & D., 30.

[3] There is, however, an element of a State guarantee in the German system, arising out of the provision for the taking over by the State of the obligations of insolvent trade associations.

[4] See post, p. 122.

[5] S. & E., 22, 148, 149, 251, 282; F. & D., 139; Rep. Fed. Com. U. S., 104, 118, 279, 1425; Cd. 2458, p. 41; Rep. Mich. Com., 33; Rep. Conf. Com., 21; Rep. Ohio Com., Pt. II, p. 312; Cd. 2208, p. 23; 24th Rep. Bureau of Statistics, New Jersey, 165; 4th Special Rep. U. S. Bur. Lab., 285, *et seq.*

[6] Friedensburg, "Praxis der Deutschen Arbeiterversicherung, 46, see post, p. 145.

2. Under a collective liability system large and small employers stand on an equal basis, both in the matter of rate and of risk. The system would not be unduly onerous on small employers such as farmers.

3. The collective system has shown the best results in inducing accident prevention. The classification of employers in industry-groups, creates a strong incentive to co-operative action in the direction of prevention, the less careful employers being compelled or induced to measure up to the standard of the most careful on pain of paying a higher rate or other penalty.[1]

4. The collective system is simple, direct and economical in its operation. By eliminating the element of contest between the employee on the one hand, and the employer and the insurance company on the other, practically the whole of the waste is eliminated and the expenses of administration reduced to a minimum.

5. The collective system affords the very best facilities for administration of payments by the week or by the month and discourage lump sum payments.

6. The collective system does not afford the same incentive for discriminating against older or practically disabled workmen. No rule supporting such a discrimination could be justified in the face of public sentiment.[2]

7. The elimination of a direct contest between employer and employee removes a source of friction and tends to more harmonious relations.

8. The collective liability system gives real and effective recognition to the doctrine of professional risk by placing the burden of compensation literally upon the industry; and no undue amount of unjust obligation or liability is placed upon the individual employer.

9. The only systems which have been placed upon any sound basis, and which promise any degree of permanency are the collective or State systems, and expert opinion strongly favors the collective principle as the only satisfactory solution.

10. The collective liability system constitutes the purest form of insurance, the risk being spread over the widest possible area and the payments of premiums and benefits being absolutely direct and the participants being as consistent as humanly possible.

11. The collective liability system can be operated on a current cost plan with its attendant advantages—simplicity and economy of operation and tendency to reduce hazards.

12. As the employee's resource is simply against a fund it does not involve the determination of any serious private rights or liability, and elaborate and expensive legal process is unnecessary.

State Liability.

Under a state liability system the obligation of compensating the workmen for injuries is assumed by the State itself, and the cost is levied upon employers or employers and workmen jointly by the exercise of the taxing power of the State. The workman looks for his compensation directly to the State, and this marks the essential character of a state liability system.

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[1] See F. & D., 138, 139.
[2] Interim Rep. Ont. Com., 407.

Attention should be called to the distinction between a State liability system and a State insurance system. A state insurance system is not necessarily a state liability system. The law may, as it does for instance in Sweden, cast upon the individual employer the liability to compensate, the state at the same time providing an insurance institution in which he may insure himself against that liability. Such a system is an individual liability system. The employer himself is individually liable for the payment of the compensation whether the insurance is compulsory or optional. Again the law may throw the liability primarily upon the employer, and provide that upon payment of the insurance premium, but not sooner, the obligation to compensate shall be assumed by the state. Such a system might be classed as a state liability system; but the purest form of state liability is where the state itself assumes the whole obligation and undertakes responsibility of providing the necessary funds by compulsory collection of the insurance premiums. Such a system is exemplified in the Act of the State of Washington which provides for the payment of compensation out of a fund administered by a State Department and collected by imposing the necessary rates upon the pay roll of industries. The State of Ohio, on the other hand, is a State liability system of the optional type, and throws upon the employer a liability of which even the payment of his premiums to the state department does not wholly relieve him.

In some jurisdictions the plan has been adopted of leaving it optional with the employer whether he will insure in the institution provided by the state or insure in some private institution. This plan also involves the placing of the primary liability to concentrate upon the individual employer, though the payment of the premium may transfer the obligation to the institution, state or private, undertaking the insurance, and relieve the employer from further individual liability.[1] The State system thus operates in competition with the private systems, with the natural result that the private companies in many cases offer lower premium rates than the State system. This is possible only in two ways, by selecting the better risks and leave the poorer to the State system, or by running at a loss. In liability insurance it is much easier to run for a period of years at an undetected loss than in most other classes of insurance. This is particularly the case in a system where compensation is paid periodically and spread over a length of time. The inevitable result of allowing private companies so to carry on business would be insolvency with the loss falling upon the very persons whom a compensation system is designed to protect. The great and insuperable difficulty of leaving compensation insurance of whatever type in private hands is that it involves the assumption by the State of an obligation more onerous than that of establishing a State insurance system, namely, that of supervising the private insurance institutions, the form of their policies and the adequacy of their reserves. The task of compelling such institutions to set up adequate reserves present much greater difficulty than the direct administration of the insurance funds by the State itself. The difficulty of State supervision of private companies is increased by the lack of experience in this class of insurance and the lack of any scientific basis for rates;[2] under a plan of compulsory assessment upon the current cost plan experience is entirely unnecessary and the speculative element is entirely eliminated.

It must also be remembered that one of the chief advantages of a State or collective liability system arises out of its size and the breadth of the basis of

[1] *E.g.*, Ohio, Massachusetts.
[2] See post, p. 55.

insurance thus rendered possible. Where this basis is divided with a number of other systems and organizations are multiplied the advantage is correspondingly minimized and in addition the State system is subjected to the competition of the private company who can afford to take larger risks of failure. In the State of Ohio at the present time liability insurance companies are in competition with the state system, carrying risks at a rate in many cases not more than one-fifth that charged by the same companies in other States where the compensation laws are less drastic, but where there is no compensation from the state system. This naturally prejudices the operation of the state department and very probably means for the liability companies a loss which must be made up by increased rates in the other states. But notwithstanding the difficulties and disadvantages under which the state insurance systems of this class have to contend, the experience has been that they drive the private schemes out of business.[1] This is the result which may fairly be anticipated for such systems as that of Massachusetts, Michigan, and New York; but in the meantime they involve a condition of immense confusion, waste, and general dissatisfaction for the community in general, and inevitable financial loss to the company or the compensation pensioners.

The advantages of a collective system are largely if not wholly attained in a state system, the difference between the two forms of systems being theoretical rather than practical.[2] If a state system were to be administered on the same lines as many other departments of state activity there would of course be grave danger of abuses by reason of political and other undue influences. It is uniformly recognized that the administration of a compensation should be as far as possible removed from such influences. Accordingly the approved form of administration is by commission, independent, as far as possible, of direct political influence. Some jurisdictions have gone so far as to provide that the members of the commission must not all be of the same political party.[3] In so far as the state system can be made thus independent it becomes practically equivalent to a collective system. In fact, it has been said of the Washington system that it is not so much a state liability system as a system of collective liability administered by the state.[4]

The absolute guarantee of the state is unnecessary because the state has always the means of collecting the necessary funds by assessing employers.

Analysis of Some Systems.

While the different systems of the world can and should be classified under the heads above suggested there is infinite variety in the details and form of their operation. Below is given an outline of the chief feature of a number of systems which may be regarded as types.

The English System.

The English workmen's compensation Act is an individual liability act; every workman within the scope of the act is entitled to be compensated by his employer for personal injury, for accident "arising out of and in the course of the employment," provided the injury is not attributable to "serious and wilful misconduct," and provided the injury disables the workman for a period of at least

[1] See F. & D., 38; Rep. Atlantic City Conf., 296.
[2] See Rep. Atlantic City Conf., 300.
[3] *E.g.*, Ohio.
[4] See post, p. 122.

one week from earning full wages at the work at which he was engaged.[1] The workman looks directly to his employer for his compensation. Provision is made for employers relieving themselves of their individual liability by organizing insurance or benefit "schemes," but the conditions surrounding the organization and approval of these schemes are so onerous that practically no advantage has been taken of the provision; instead many employers insure themselves against their liability by "employers' liability insurance," the insurance companies engaging for a specific rate based upon the pay roll, to indemnify the employer against liability in respect of accidents that occur, and to assume the defence of any proceedings that may be brought against the employer to enforce compensation.

All occupations are covered by the Act, but an exception is made of (*a*) persons not employed in manual labor whose remuneration exceeds £250 per year; (*b*) persons whose employment is of a casual nature; (*c*) members of the employers' family dwelling in his house.

In case of injury resulting in death the compensation under the English Act consists of reasonable expenses for medical attendance and burial to a maximum of £10 ($48.67) and a lump sum payment equal to £150 ($729.98) or three years' earnings, whichever is larger, up to a maximum of £300 (1,459.95) apportioned amongst the dependents of the deceased. Where the injuries result in disablement the compensation is a weekly payment on the basis of one half the impairment of earning capacity but not exceeding £1 ($4.86) per week.

By agreement between the parties and with the consent of the court weekly payments may be commuted for a lump sum and this appears to be the practice in the majority of cases; in case of dispute over a claim for compensation the workman has recourse to proceedings in the county court or to arbitration, and from the decision of these bodies and with their consent an appeal lies in questions of law to the Court of Appeal.

Many of the features of the English Act were introduced by way of ill-digested amendments passed in the teeth of the recommendations of investigating committees of Parliament. The whole system represents a series of compromises in attempting to operate a principle which is now generally recognized as inadequate. The following passage from the report of the Departmental Committee of 1904 speaks for itself:

"But even if legislation in the direction indicated in the last paragraph is adopted the difficulty and danger arising from the insolvency of the employer will not be completely met. For there is no obligation upon him other than that of enlightened self-interest compelling him to insure, and, as has been pointed out, there are many employers, and there are likely to be more, if the Act is extended, who through ignorance or recklessness or inability will not insure, or if they insure at first will not keep up their insurance; this difficulty, and indeed, many other difficulties to which the present system gives rise, could only be solved by the substituting for the personal liability of the individual employer the security of a fund the solvency of which was for all practical purposes assured. The problems how such a fund is to be provided, how employers are to be induced or compelled to insure their workmen, and how the workmen are to be given direct recourse to such a fund may have to be faced in the future, but in strictness, the attempt at their solution lies beyond the scope of this reference. We have considered it to be our duty to accept the principle of the Act of 1897, imperfect as we believe it to be. As has been often pointed out the scheme of that Act was to cast upon the employer the duty of providing the compensation, leaving him to protect himself if not wealthy enough to bear his own burden by the ordinary methods of insurance. We

have recommended changes in the law which we think may advantageously be made in carrying out this principle. At the same time we have indicated from time to time the inherent difficulties involved in its application. It is not improbable that in the future the state will have to take upon itself more extensive functions in relation to accident insurance. We have indicated in the preceding paragraphs that there is a strong case for legislation so as to give greater security for the solvency of commercial insurance companies. Many witnesses have suggested that some system of national insurance should be established which should relieve employers from all personal liability except that of providing the necessary funds. Any such proposal would require and will doubtless hereafter receive the fullest consideration from the Legislature. It may be that the state should establish or regulate a system of insurance which would provide an opportunity for every employer and for every workman to obtain complete security. It may be that a state policy might protect the employer from all personal liability except the payment of the premium. It may even be that ultimately some form of compulsion might be adopted requiring all employers to insure their workmen in some association under state regulations. It may be that under such a system larger benefits than those given by the present act might be provided for, but in that case it would seem to follow that some contribution, proportionate to the increase of benefits, should be made by the workmen to the insurance fund. These and similar questions are probably in prospect, but it would be premature and beyond our commission to discuss them. We can only indicate that, beneficial as we believe the legislation of 1897 to have been on the whole, we do not think it can be regarded otherwise than as a step in the direction of a more comprehensive system."[1]

The German System.

The accident compensation system of Germany is a collective liability system, liability to compensate being imposed, not upon employers individually, but upon associations of employers, formed under state compulsion and supervision. The accident compensation system is a part of a larger insurance system, embracing sickness insurance, old age insurance and unemployed insurance, as well as accident insurance.

For the first thirteen weeks after the occurrence of an accident compensation is paid out of the sickness insurance fund, which is raised by joint contribution in equal portions from employers and workmen. After the first thirteen weeks compensation is paid out of the accident insurance funds which are raised by contribution from employers only.

Employers are grouped according to industries into mutual trade associations, (Berufsgenossenschaften) which are practically mutual insurance companies; the insurance funds are raised by assessments upon the members of these associations according to the pay-roll. The actual payment of compensation is made through the Post Office and the money for compensation payments is advanced by the Post Office on the order of the Directors of the Trades Associations. These advances are liquidated at the end of the year by the trade associations and the amount of the advances, together with the cost of administration and the amount required to be set aside for the reserve fund, is assessed upon the members of the trade associations, so that not the capital value of the pensions but only the actual payments out during the previous year are collected.

[1] Cd. 2208, p. 123.

The associations have, in addition to the power of fixing rates and making assessments, the power to make and enforce preventive regulations and to employ expert inspectors and specialists in accident prevention and to provide medical and surgical aid. Each trade association elects its own board of directors to manage its insurance fund, but is subject to the general supervision by the Imperial Insurance Department.

Injured employees or their dependents apply for their compensation directly to the directors of the trade association. In case of dispute as to the right to, or the amount of, compensation an appeal lies to a court of arbitration with a final appeal to the Senate of the Imperial Insurance Office.

The German system covers all occupations, including shipping, agriculture and domestic service. It covers employees in receipt of a yearly wage of 3,000 marks, ($714) or less; but provision is made for the voluntary insurance of employees in receipt of a higher wage and also for small employers who desire to insure themselves.

Compensation is granted for all injuries occurring in the course of employment, unless the accident has been intentionally brought on by the injured person or his dependants, or unless it is the result of an act which has been judicially pronounced a crime or offence.

The benefits under the German system are: (A) In case of disability from the fourteenth week after the accident (1) free medical and surgical treatment as well as necessary appliances such as crutches, artificial limbs, etc; (2) an allowance during disability of 66 2-3 per cent. of the impairment of earning capacity; (3) if the workman is not only disabled from working but helpless and requiring attendance an allowance of 100 per cent. of the former annual earnings.

(B.) In case of death (1) a funeral benefit equal to one-fifteenth of the annual earnings, but not less than 50 marks ($11.90); (2) an allowance to dependants of not more than 60 per cent of the annual earnings as follows:

(*a*) To the widow until death or re-marriage, or to the dependent widower or to each child up to the completion of the fifteenth year, 20 per cent. of annual earnings; on re-marriage the widow receives a settlement equivalent to three years' allowance.

(*b*) Where the 60 per cent. is not exhausted by the widow and children, parents or grandparents wholly or partially dependent are entitled to an allowance not exceeding 20 per cent.

(*c*) And where the 60 per cent. is not wholly exhausted by widow, children, parents, grandparents, grandchildren, wholly or partially dependent, are entitled to an allowance not exceeding 20 per cent. each to the completion of the fifteenth year.

The Washington System.

The system of the State of Washington is a state insurance system. The obligation to compensate workmen for injuries is assumed by the state itself, through an Industrial Insurance Board. Compensation on a scale laid down in the Act is paid out of a fund created by contributions levied upon employers as a tax. Contributions to the fund are levied in accordance with a schedule fixed by the Act in which different classes of occupations are graded according to hazard and the rates fixed as a percentage on the pay roll.

The Act applies only to "extra-hazardous" employments, this limitation being considered necessary owing to the constitutional restrictions upon the State

power of legislation, but provision is made for voluntary insurance by the employers not included in the compulsory operation of the Act. Within the class of industries enumerated the Act applies to all employers, large and small.

The compensation schedule provides for (*a*) Expenses of burial not exceeding $75; (*b*) a payment of $20 per month for life to the widow or invalid widower with an addition of $5 per month for each child under the age of 16 years, the total not to exceed $35 per month. The estimated capital amount of this payment is $4,000, which sum is set apart out of the general fund in each individual case as a special fund to meet the payments, any surplus or deficit being adjusted with the general fund. The capital amount of $4,000 may in some cases be paid out in a lump sum; (*c*) Permanent partial disability is compensated by a lump sum, payment corresponding to the extent of the injury but not exceeding $1,500. Instead of a waiting period the Washington Act provides that no compensation shall be payable unless the loss of earning power exceeds 5 per cent. and there is no provision for temporary partial disability. Claims for compensation are adjusted by the state insurance department, subject to appeal to the Superior Court of the county.

The State Department consists of three commissioners, appointed by the Governor, with a staff of auditors, assistants, etc. The Department has power to employ one or more physicians in each county for the purpose of efficient medical examinations.

Safety regulations are enforced by the imposition of penalties payable to the insurance fund.

The common law remedies of the workmen are entirely merged in the remedy under the Act: but where an employer refuses or neglects to pay his insurance assessments the workman may bring an action against the employer, the latter being in such cases deprived of the defence of common employment and assumption of risk.

The Norwegian System.

The Norwegian system is a state insurance system. Employees are insured in a state institution and apply to it for their compensation.

The insurance scheme covers practically every hazardous industrial and commercial enterprise except farming and fishing. The various industries are classified into groups according to the risk of the employment and employers pay premium into the State Insurance Institution commensurate with the risk and based upon the number of the employees and size of the payroll.

For the first four weeks of incapacity, unless the injured employee has made special provision for himself, the employer is individually liable to make provision. The State Insurance Institution compensates the employees for the injuries resulting in total disability for a period of not more than four weeks, by weekly payments equal to 60 per cent. of the basic wage but in no case less than 150 crowns ($40.20) per year. If the annual earnings of a workman are more than 1,200 crowns a year the compensation payments are based on that amount. In the case of disability more or less permanent the weekly payments may be commuted under certain circumstances for a lump sum representing not more than five years' payments.

Where the injury to the workman results in death the State Insurance Institution pays the cost of burial to the amount of 50 crowns ($13.40) and allows the following pensions to the survivors. (*a*) To a widow an amount equivalent to 29 per cent. of the injured person's wages; (*b*) to each child an allowance of not more than 15 per cent. of the workman's wages up to the completion of the 15th year, the

total paid to the widow and children in no case to exceed 50 per cent; (*c*) where the 50 per cent. is not exhausted by widow and children, to dependent ancestors an allowance of not more than 20 per cent. each.

The State Insurance Institution is controlled by a Board of three members—a Managing Director and two Associate Directors appointed by the King. The latter retire one at a time, every three years, after six years' service, but retiring members may be re-appointed.

Cases in dispute are settled by the Directors of the State Insurance Institution. An appeal lies from the Institution to a special commission consisting of seven members, three appointed by the King, and two each representing employers and employees appointed by Parliament, (Storthing). This commission constitutes a final court for all matters of assessment but a further appeal may be made to the regular courts for questions of law.

The pension payments are made largely through the agency of the Post Office.

The adjustments of claims as well as the investigation of industrial establishments and a large share of the general administration of the Act is in the hands of "Inspectors" appointed by the authority of the Communes but directly responsible to the State Insurance Institution.

The rates of insurance are based upon the capitalized value of the pensions accruing by the accidents of each year and not, as under the German system, upon the actual payments made during the year. A reserve fund is therefore set up which is intended to provide for the liquidation of all claims for injuries accruing in the past.

The Ohio System.

The Ohio system is an individual liability system with optional state insurance. Employers are liable to an action at law without the protection of the defence of contributory negligence, common employment, and assumed risk. Upon payment of an appropriate insurance premium this liability is assumed by the state and the employer is freed from liability save for the wilful acts of himself or his agents, or the breach of any statutory regulations, in which the employee has the option, instead of applying to the Board for his compensation to bring an action at law. The State Insurance Department is controlled by a Board known as the "State Liability Board of Awards" consisting of three members, not more than two of whom may belong to the same political party. The members are appointed by the Governor for six years, one member retiring every two years.

The Act extends to all establishments in which five or more workmen or operators are regularly employed and where the employer has elected to come under the scheme. Such establishments are insured by the Board at rates estimated by the Department as being adequate to carry the risk.

Of the premiums paid to the department the employer is authorized to deduct ten per cent. from the wages of the workmen.

Employees coming under the Act are entitled to compensation for all injuries sustained in the course of their employment provided the injury has not been self-inflicted.

The schedule of compensation is as follows:

(*a*) Medical and hospital expenses not exceeding $200.

(*b*) In case of death funeral expenses not exceeding $150.

(*c*) A compensation allowance as follows:

(A) in case of death. 1. To wholly dependent persons an allowance

(after the first week) of 66 2-3 per cent. of the average weekly wages, for a period of six years after the death, the whole to be not more than $3,400 and not less than $1,500. 2. To partly dependent persons an allowance (after the first week) of 66 2-3 per cent. of the average weekly wages for all or such portion of six years as the Board may determine, the whole not to be more than $3,400 and not less than $1,500.

(B) In case of temporary or partial disability an allowance to the employee (after the first week) of 66 2-3 per cent. of the impairment of earning capacity, not more than $12 per week and not less than $5 per week for six years from the date of the injury.

(C) In case of permanent total disability an allowance to the employee (after the first week) of 66 2-3 per cent. of the average weekly wages, not more than $12 per week, and not less than $5 per week until death.

The Board has power to commute periodical payments into one or more lump sums.

The Board has full jurisdiction to adjust and re-adjust all claims for compensation, and its decision is final except where compensation is entirely denied on the ground that the injury was self-inflicted or did not arise in the course of the employment or the like, in which case the applicant has the right to bring an action against the Board itself.

An employee who exercises his option to institute proceedings in the court as above, thereby waives his right to compensation from the Board; and conversely by applying to the Board a workman waives his right to institute proceedings.

The Massachusetts System.

The Workmen's Compensation Act of the State of Massachusetts establishes a collective liability system under the supervision of a department of the State. The Act abrogates the Common Law defences, contributory negligence, common employment and assumption of risk. If the employer elects to insure in the Massachusetts Employers' Insurance Association which is managed by representatives of the employers, the injured workman has to apply directly to the Association for compensation and the individual employer is under no liability.

All employees of employers who have elected to come under the jurisdiction of this Act are entitled to the benefits of this Act unless they have given due notice to the contrary and provided that the industrial accident has (1) arisen out of and in the course of employment, (2) leads to incapacity for a period of less than 2 weeks, (3) was not due to the serious and wilful misconduct of the workman.

The Act furnishes the following benefits:

(A) In Case of Death.

(1) Where the injured workman leaves no dependants payment for last sickness and burial not to exceed $200.

(2) Relatives wholly dependent, a weekly payment equal to one-half the workman's average, but not less than $4 and not more than $10 per week, for a period of 300 weeks from the date of the injury.

(3) To relatives partly dependent a weekly payment proportionate to the degree of dependency with due regard to the pension allowed to relatives wholly dependent.

(B) In Case of Incapacity.

(1) If total incapacity results from the injury the workman shall be allowed a pension equal to one-half his wage, to be not less than $4 and not more than $10 for a period of 500 weeks, the total amount of such pension not to exceed $3,000.

(2) Where partial incapacity results to the workman from his injury he shall be allowed a pension equal to one half his impaired earning power, such pension not to be more than $10 per week for a period of 300 weeks, and total amount of such pension not to exceed $3,000.

(3) In case of specific injuries such as loss of feet, hands, eye, etc., pension for stipulated periods according to schedule are to be allowed.

Weekly payments may be commuted after six months into a lump sum by the agreement of the parties but subject to the approval of the Industrial Accident Board.

The Industrial Accident Board consists of three members, appointed by the Governor of the State for a period of six years, one member of the Board to retire every second year. It is the duty of this Board to supervise the work of the employers' Insurance Associations. Where the injured workman and the Industrial Insurance Association fail to arrive at a settlement as to the amount of the benefit to be allowed, the Industrial Accident Board calls for the formation of a committee of arbitration. This committee consists of one member of the Board and a representative of each party interested. An appeal lies from the arbitration committee to the Industrial Accident Board and a further appeal to the Supreme Judicial Court, the latter on questions of law only.

If an employee is injured by reason of the serious and wilful misconduct of the employer, or persons regularly entrusted with exercising the power of superintendence, the amount of compensation is doubled. In such case the employer who has subscribed to the employee's Insurance Association repays the Association the extra compensation paid to the employee.

Employers' Liability Insurance.

Where the obligation to compensate workmen for injuries is thrown directly upon individual employers it is customary, and it is in fact assumed to be necessary, for the employer to insure himself against his liability in an insurance company or institution. Reference has been made to a theory which has been advanced that employers should not be allowed thus to insure their liability lest the incentive to prevention of accidents be minimized.[1] This theory is of course entirely contrary to the whole genius of workmen's compensation as generally understood. If applied in practice it would not only result in depriving workmen in a large percentage of cases of all compensation, but would have a tendency opposite to that ascribed, for the greatest preventive effort can be induced only by the invocation of cooperation and specially directed effort. In any practical conception of an individual liability scheme insurance is a necessary adjunct.

Employers' liability insurance first arose in England after the Employers' Liability Act of 1880. While there were isolated instances of such insurance before that time there had not been in England or elsewhere any general practice amongst employers of insuring themselves against possible liability in respect of personal injuries to their employees. Upon the passing of the Act the well-known "Lloyds" at once began to do a considerable business in liability insurance and other com-

[1] See ante, p. 63.

panies sprang up throughout Great Britain. The Act of 1897 brought with it a great extension of this class of insurance. Reports of the Board of Trade show that there are now fifty-six British companies engaged in employers' liability insurance. A corresponding development has taken place in the United States and in Canada. The Report of the Superintendent of Insurance for the Dominion shows that there are twenty companies engaged in employers' liability insurance business in this country. Eleven of these are foreign companies and of the remainder some are subsidiary to foreign companies.[1] During the year 1911 there were in force in Canada employers' liability policies aggregating $86,641,045, of which $28,687,400 was held by Canadian companies. None of the Canadian companies are engaged exclusively in employers' liability insurance but carry on other branches of insurance as well.

Employers' liability insurance has been defined as "the undertaking of liability under policies insuring employers against liability to pay compensation or damages to workmen in their employment."[2] Such insurance is in its nature entirely different from accident insurance though the two classes of insurance are frequently carried on by the same company, and in fact sometimes combined in the same policy. The essential difference between the two types of insurance is so important in considering workmen's compensation systems and is so commonly misunderstood or ignored that it should be the subject of careful observation. Accident insurance would insure the *workman* against loss resulting from accident. Employers' liability insurance insures the *employer* against loss from being compelled to pay compensation or damages to his workman. Accident insurance is for the protection of the workmen; employers' liability insurance is for the protection of the employer. Where a workman is insured against accident his recourse, in case of loss, is directly against the insurance company. Where an employer has insured in an employers' liability company the workman's recourse in case of injury remains directly against the employer. The liability policy affords the workman no protection, but on the contrary enlists on the side of the employer the experience and superior facilities of the insurance company in contesting claims. For the practice is for the insurance company to assume and conduct the defence of any action that may be brought by the workman to enforce his rights against the employer. The employer on the other hand is not in a position to deal unrestrictedly with his employees in settling claims which may appear to him deserving, lest the case should not commend itself to the insurance company as one involving a legal liability on the part of the employer. So far as the workman is concerned, therefore, workmen's compensation is either negative in its operation or positively detrimental.

In other and less direct ways liability insurance is also positively detrimental to the employee and this fact is generally recognized. Employers are often prevented by the terms of their policies from engaging older or partially incapacitated men for the reason that they increase the hazard.[3] Again, insurance companies are accused of exerting undue pressure in making settlements. The representative of the company as a matter of business siezes the psychological moment when the injured man or his dependents are most in need to offer a settlement for ready cash, which is almost as certain to be disadvantageous to the beneficiaries as it is advantageous to the company.[4]

[1] See Rep. Supt. Ins. 1911, p. 57.
[2] McGilliveray, Insurance Law, 28; F. & D. 8.
[3] See Conf. of Com., 64; F. & D., 16; Rep. Atlantic City Conf., 38.
[4] See S. & E., 231; Cd. 2208, 39, 40; F. & D., 16.

It follows from the nature of the insurance that the risk is subject to infinite variations. In life insurance there is always a firm basis in the mortality tables which though subject to some fluctuation, do not substantially vary in different localities or at different times. Employers' liability on the other hand is subject to a variety of factors and conditions many of which are not susceptible of anything like accurate calculation. First and foremost is the question of the operation of the laws under which the liability is imposed; whether and to what extent the liability rests upon fault on the part of the employer; whether and to what extent it is affected by fault on the part of the employee; what defences are available to the employer in an action by the workman; whether the remedy of the workman is a single one or whether he has a choice of two or more remedies; to what extent the method of adjustment involves expense in litigation or otherwise; whether the method of adjudication permits of punitive or exemplary damages. Another factor is of course the hazard or probability of the occurence of an injury. This depends primarily upon the nature of the occupation and is subject also to other influences such as the degree of care exercised in guarding machinery, etc.; the degree of strictness in enforcing rules of safety, the speed of operation, the nationality, age, sex and general character of employees, as well as a variety of circumstances constituting what is generally known as the "moral hazard." In the third place the character of the risk is dependent upon the schedule of pecuniary benefits which the workman is entitled to receive, or the customary scale of damages allowed by court or jury. Of the three large classes of factors mentioned this might appear to be the most readily calculable; but where the compensation system involves periodical payments extending over a considerable period, further considerations are introduced such as the probability of the duration of life of incapacitated persons, the probability of the workman's being married, the probable number of children or other dependants, the probable duration of widowhood, with a variety of other factors which may influence the duration of the compensation period. Absence of reliable statistics or experience in any one factor involves an element of speculation beyond the legitimate risk which it is the province of insurance to equalize. But in liability insurance many of the prime factors have not been, nor in fact do they perhaps admit of being, subjected to scientific treatment. The ephemeral nature of the laws covering employers' liability, the wide extent of the territory covered by most liability insurance companies, and the diffusion of the business in a given territory amongst a large number of insurance institutions has thus far stood in the way of any attempt at uniformity such as has been attained through the underwriters' associations in other lines of insurance. The speculative and unscientific character of the employers' liability insurance rates is generally recognized [1] and is acknowledged by the insurance companies themselves.[2] It is understood indeed that a movement has just been begun with the object of forming an association of employers' liability companies for the purpose of dealing with rates,[3] but the plans of this movement as outlined in the insurance journals reveal not only how absolutely inadequate and unscientific has been the treatment of rates up to the present, but also how difficult it is to place them upon a more satisfactory basis.

The primary effect of unscientific rating is to penalize the less hazardous industry and the less careful employer, as against the more hazardous industry and

[1] See S. & E., 227, 242; Rep. Wis. Com., 40; Rep. Illl. Com., 169.
[2] See 24th Rep. U.S. Bur. Lab., 1544, 1548.
[3] See "The Iron Age," 2nd May, 1912, p. 1,094.

the less careful employer. This weakness of the liability insurance system has led many progressive employers to abandon it altogether and carry their own risk. With the larger employers this is, of course, quite practicable, but the smaller employer must either submit to the unjust rate or carry an undue risk.

One difficulty that stands in the way not only of establishing a scientific basis of rates, but in fact of any plan of uniform action, is the variation amongst different insurance companies in their conception of the function of the insurance which they undertake. Some companies, construing their relations to the employer in a literal sense, make it a policy to pay only in case where the employer is strictly liable in law, and of defending doubtful cases as far as possible. Other companies adopt a broader view of their functions and recognize to some degree the natural desire of the employer on humanitarian grounds to see the workman compensated in doubtful cases. The latter conception involves of course an element of accident insurance, and as already noted, accident insurance, more or less limited, is frequently combined with policies of employers' liability insurance. The practice of companies, however, varies not only with the form of policy but with the general attitude towards employers' liability insurance. In some insurance companies the question of the merits of a claim for compensation is left almost wholly to the employer, the company promptly settling such claims as are recommended by the employer. In other companies every claim is carefully considered with the view to the possibility of a defence. Again, the attitude of employers towards insurance companies varies greatly. Some employers expect the insurance companies to stand behind them in every case, small or large; other employers carry their insurance only for the purpose of protecting themselves against very serious and large claims, and pay the smaller claims without having recourse to the insurance company. These variations in attitude on the part of the company and of the employer are necessarily reflected in the insurance rates, and constitute another factor standing in the way of anything like uniformity of hazard or rate, not only as amongst different companies but also as between different insurers in the same company.

In this connection it may also be observed that the rate of insurance usually varies with the amount of the policy. Rates are generally fixed with reference to policies for a limited sum, usually $5,000, which is fixed as the limit of the company's liability for any one accident. For insurance beyond this amount a higher rate is exacted.

Viewed as an agency for the administration of workmen's compensation the defects of employers' liability insurance become still more apparent. From this standpoint the efficiency of the insurance must be largely regarded as a matter of economy, in transferring the money paid by the employer in premiums with a minimum of loss to its proper destination, the injured workman or his dependents, in this aspect employers' liability insurance appears in no better light than in the matter of rating. Figures gathered by the Commission of the State of New York show that of $23,523,585 gross premiums collected by ten firms during the years 1906, 1907 and 1908 only $8,559,795 was paid out in claims to injured workmen,[1] It is commonly estimated in the United States that of every dollar paid out by the employer in liability insurance premiums only from 20 to 30 per cent. eventually reach the pocket of the injured workman.[2]

The Report of the Superintendent of Insurance for the Dominion for the year 1911, shows that the twenty insurance companies engaged in the employers' liability

[1] See Rep. Ohio Com., Pt. I, p. 38.

[2] See S. & E., 242; F. & D., 16; Rep. Fed. Com. U.S., 840; Rep. Wash. Com., 5; Rep. Ill. Com., 11.

business in Canada collected a total of $2,103,275 in premiums, of which $1,033,096 was written off as "loss" and $927,774 was paid out in claims. In other words, of the money paid in by way of insurance premiums, only 44 per cent. was actually paid out in compensation, and only 49 per cent. of loss is chargeable according to the calculations of the company against the year's business. Of this another considerable portion will go towards expenses and fees of the plaintiff's solicitor, leaving the ratio of actual benefit to the workman about the same as in the United States.

Of the expenses a very large percentage, between 20 and 25 per cent., represents the commissions of agents. Being a yearly business, liability insurance passes easily from one company to another and each change involves a commission to the agent for "new business." An effort on the part of the United States companies has resulted in a scaling down of this item of expense to 17½ per cent., but further reduction will be very difficult owing to the competitive nature of the business and the instability of policies due to constant changes in the laws. Another large item of expense is, of course, that of litigation. The balance is made up of general office expenses, salaries of officials, etc., though an increasing amount is being spent upon inspection of risks with a view to reducing the hazard. Owing to the diffusion of the business amongst a large number of companies, many of them small, and the consequent duplication of work, the ratio of expense is of course much larger than it would be if the business were in the hands of a smaller number of companies.

Notwithstanding the large percentage of premium money applied by companies in expenses the business of employers' liability insurance, as a business, has not been successful. Both the English and the American companies have since the inception of this type of insurance been running at an aggregate loss.[2] The returns of the British Board of Trade for 1910 shows that the thirty-four tariff companies in that country incurred an aggregate loss on the year's business of 4.77 per cent. of the premiums, while twenty-two non-tariff companies netted a loss of 34.28 per cent.

With the introduction of systems of periodical compensation new problems are being introduced into the business of employers' liability insurance. It becomes necessary, under these systems to calculate the present worth of the periodical payments, the probable duration of the life of the recipient or the period of incapacity. In England the practice has grown up of commuting the periodical payments by turning them into an annuity, and sometimes by purchasing a government annuity. The natural tendency is of course to liquidate the loss as soon as possible and write it off. Where the commutation assumes the form of a government annuity it doubtless affords some advantage in the way of assuring solvency. Where payment of the annuity is assumed by the company itself the question of reserves at once arises. In view of the uncertainty as to the duration of periodical payments consequent upon lack of experience and statistics, there is room for considerable difference of opinion as to the necessary amount of reserve and the inevitable danger of inadequacy is of course increased with the keenness of competition for business. There is grave reason to fear that the position of many of the English companies leaves much to be desired on the score of ability to meet their future obligations.[3] A movement is now on foot to bring these companies under closer government supervision.

But where the periodical payments are converted into a government annuity

[1] Abstract of Statements of Insurance Companies of Canada for the year 1911, pp. 57, 58.

[2] See F. & D., 23.

[3] See F. & D., 23.

further difficulties arise. A workman supposed to have been permanently incapacitated may partially or wholly recover his earning power, in which case his allowance is supposed to cease. The government annuity, however, would run on, unless, indeed a form of annuity were devised which should be subject to the contingencies of physical capacity, which would be the administrative side of the government accident insurance system. A corresponding difficulty would arise where the injury to a workman was after settlement of the annuity found to be more serious than supposed at the time of the settlement.

If any further argument is needed to show the difficulties of a system of liability insurance, it is furnished by a consideration of the highly anomalous and complex situations that may arise, for instance, in the case of a workman who has been totally or partially incapacitated for twenty years. His employer may be insolvent or dead. The insurance company may be insolvent. The employee's recourse is of course against the employer. If the employer is insolvent the employee cannot recover against him. The employer not having suffered any loss cannot recover against the company. If the employer is solvent and alive the company may be defunct and on the other hand if the company is in a position to carry out its obligations, the employer may not be alive or in a position to enforce them. The workman's claim is no stronger than the weakest link in the chain of liability and solvency, and the attempt to strengthen the position of the workman by a series of preferences and subrogations, merely adds to the complexity and the possibilities for litigation. In fact it cannot be too emphatically asserted that an employers' liability insurance system, unless under government control so rigid as to amount practically to government insurance, is entirely incompatible with a compensation system of periodical payments. From the employer's standpoint the danger of this condition of the liability insurance business is that his insurance may fail him just when he needs it most. A period of financial depression impairing the value of the insurance company's securities and curtailing its premium income may cause it to go into liquidation, leaving upon the employer not only his risk but under a periodical payment system the payment of compensation for which he has already paid the company.

Nor are the defects of employers' liability counterbalanced by any considerable accompanying advantages. Apart from amplitude of premium rates and success in contesting claims for compensation, the only factor which can have any considerable effect upon the profits of the insurance company and which affords any considerable field for its activities is that of accident prevention. In this branch the success of liability insurance companies has been no more marked, and their treatment no more scientific than in other departments.[1] While some effort has been made by inspection to select and grade risks these efforts have been thus far perfunctory and desultory. It is in fact very difficult for the average insurance company to work out any system of efficient inspection. In Canada, for instance, the insurance in each branch of industry is scattered amongst a score of companies. Many of the largest and best members of each class do not insure at all, and amongst the smaller employers non-insurance is the rule. Under these circumstances it is impossible for an insurance company to give to even the main branches of industries that specialized inspection which is necessary to secure adequate results. If the insurance were divided amongst the different companies on special lines according to the nature of the industry, there would be some possibility of specialized and scientific preventive work, but under existing conditions or under any system of voluntary insurance this is impracticable.

[1] See Rep. Ill. Com., 169.

The Actuarial Phase.

One of the most important of the many phases of the complex subject of workmen's compensation is the question of the proper actuarial basis for computing premium rates. This phase in itself is not so complex as it at first sight appears. It resolves itself into the question which of two plans shall be adopted; but the effects and consequences of the respective plans render the question one of the most direct concern in the establishment of a system.

In a system where a lump sum is paid at the time of the accident to liquidate the entire claim in respect of an injury, the actuarial problem presents a different aspect from that which appears where the payments assume a periodical form spread over a number of years. In the former case the actuarial problem is merely a matter of striking such rates as shall bring a total premium income sufficient to meet the year's claims, or the claims in respect of injuries occurring during the year. An inadequate rate would involve nothing worse than a loss on the year's business. The failure of an insurance company would not mean anything more than the loss of the insurance of one year.

Where, however, the compensation is payable in instalments spread over a period of years, terminable upon a variety of contingencies and subject to increase or decreases, different, or rather additional, considerations arise. It becomes necessary then to reckon with such factors as probable duration of life or of widowhood, probable number of dependants and probable extent and duration of disabilities. An error in the calculation of a rate under such a system is much more serious in its consequences than in a system where payments are regularly liquidated at the time of the accident. Inadequacy of rate under such a system involves insufficiency of reserves to meet future compensation payments; and the failure of an insurance company would mean not only the loss of a year's insurance but the loss of a series of pensions reaching forward a generation.

Where compensation insurance assumes the form of an insurance, in a private company, of the liability of the individual empolyer, there can be no question as to the necessity of maintaining adequate reserves to meet future payments. Any attempt to make up deficiencies in the reserves out of future premiums would bring the inevitable fate of similar practices in life insurance,—and the more readily as there is not the same difficulty in getting new employer's liability insurance as there is in getting new life insurance. The result would be bankruptcy for the company, but the more serious result would be the failure of the payments of compensation. But an entirely different set of circumstances arises where the compensation takes the form of an assumption by the state, or by a collective body exhaustive of its class, of the obligation to compensate directly the workman and not merely to indemnify the employer. In such a system there is in the first place no shifting or fluctuation of the class of insurers, except where an occasional business change occurs by reason of death, bankruptcy, etc. The class remains comparatively fixed. There is no danger of members leaving and joining another scheme, and consequently no danger of rates rising above normal even where no reserves are set up. It is possible, therefore, under such a system to merely assess the proper amount to meet each year's current payments without setting up any reserve to provide for future payments. If no attempt is made to set up a reserve fund there can never be any rate above the normal rate based upon the actual current requirement. Under such a plan, which may be called the "current cost" plan, the initial rate would be comparatively low, the first year's rate being based on the sum required to pay the first year's pensions. The annual rate would increase from year to year under normal

conditions, for a period of thirty or forty years, that is until such times as the number of persons dropping off the pension list by death or otherwise equalled the number coming on by reason of accident.[1]

There are, therefore, available two plans of rating, one, which may be called the "capitalized" plan, of charging against the year's premiums a capital sum sufficient to provide for future payments of compensation for all accidents of the year, and the other, which may be called the "current cost" plan of merely levying each year the amount necessary to pay the year's pensions. Under the capitalized plan the rates are fixed upon the assumption that when an injury occurs an estimate should be made of the amount necessary to provide for all payments, immediate and future. The present worth, so to speak, of the compensation payments is found and this amount is collected and set aside in the year in which the injury occurs, or in the case of a private company, is written off as a loss against the year's premiums. Under the current cost plan no such estimate is made and no amount is set aside or written off. Each year there is collected only enough to meet the payments due that year.

For further illustration of the two methods reference may be had to the Washington Act under which, in case of death, an allowance of $20 per month is given to the widow or invalid widower. The compensation payments for one year would amount to $240. It is estimated that to supply the necessary fund to pay $240 per year for life in the average case $4,000 would have to be set aside. The question as between the current cost plan and the capitalized plan is whether there should be collected each year the $240 to be paid out that year, or whether the whole amount of $4,000 should be collected for the year in which the accident took place.

It is obvious that no such actuarial qustion would arise where the compensation was paid in a lump sum. In this country up to recent times and indeed in most countries the rule has been either a lump sum compensation or permission to commute the periodical payments for a lump sum. Accordingly insurance companies in this country and in other countries such as England have not been called upon to deal with any other actuarial plan than one involving immediate capital sums. The recent Act of the Province of Quebec, however, with its non-commutable "rents" has introduced a new phase in compensation insurance in this country. There can be no doubt that in the compensation systems of the future periodical payments will be the rule and lump sum payments will be abandoned.[2] This introduces an entirely new feature in insurance. It is necessary in fixing insurance rates on the capitalized plan to deal not only with questions of the hazard of different occupations and industries but such questions as the probable length of life, the probable age of workmen, the probability of being married, the probable number and age of children, and the probability of re-marriage of widows. Upon these will depend the amount and the period of the pension allowances, and the amount of reserve necessary to set up.[3]

Where compensation insurance is carried by private companies with a shifting clientele it is essential that the insurance rates shall be strictly adequate to provide a sufficient reserve for carrying the pensions, otherwise when the inevitable rise in rates was brought on the insurers would abandon their policies and the pension obligations would ruin the company. The tendency of the rise in rates would also be to attract the poorer class of business not wanted by better companies, which

[1] See Rep. Fed. Com. U.S., 103, 276; F. & D.
[2] See ante, p. 68.
[3] See ante, p. 104.

with its higher loss ratio would still further handicap the company.[1] The current cost plan of insurance is, therefore, possible only in a state insurance system or in a collective system with permanent classes.

The most obvious advantage of the current cost plan is the saving in immediate cost in insurance premiums. The immediate imposition of a capitalized rate would involve a very serious shock to many industries. It has been pointed out that the rate would run from 2 to 10 per cent. on the pay-roll according to the scale of benefits conferred by the Act. Under the current cost plan the rates would in most industries start at about one-fifth the capitalized rate.[2] Reference has been made to the want of adequate statistics and experience as a basis of rates.[3] In view of this it would be necessary, in order to insure adequacy in the reserve, to capitalize at an outside estimate, with the possibility, of course, that this would be much above actual cost, but with the possibility also that it might still be inadequate, in which case the whole intention would fail. Experience of other jurisdictions has shown the practical difficulty of assessing an adequate capitalization rate. In Norway the state insurance institution found itself after some years of operation face to face with a deficit of approximately $100,000 in its reserves. This amount was made up by the government out of the general funds.[4] It is easily seen that in a larger system such as that of Germany or Austria the deficit would have been much more serious. In fact the Austrian system which theoretically operates on the capitalized plan has been facing for some years a deficiency which in spite of constant advances in the rates is still increasing.[5]

There is a temptation to urge at first blush, against the current cost plan of compensation insurance, the objection against assessment life insurance, but a moment's reflection will show that the two classes of insurance are not on the same footing. In the first place in life insurance both the taking out of the policy and the continuation of the payments are voluntary. It is open to an insurer after he has made a number of payments to drop his policy, and subject to the difficulty of increased age, to take out a new policy in another company. No corresponding course is open under a system of compulsory compensation insurance.

The only serious objection which can be urged against a system of current cost assessment is that it involves the throwing on future industry of some of the burdens accruing in the present. This objection is entirely outweighted by the consideration that the rate will not, when it reaches its maximum, be any larger than the capitalized rate, but as experience in Germany shows will be much lower, and the further consideration that the immense sums of money which it would be necessary to lay aside as a reserve fund are left in active circulation in the employer's business. But the theoretical objection itself vanishes when it is remembered that employers and the community generally are now bearing, and will continue for a generation to bear the burden of the accidents of the past. Those persons who have suffered injuries in past industrial accidents are of course being provided for, and will continue to be provided for by various means including poor relief and charity. As this burden gradually decreases it is just and equitable that the burden of the new compensation system should gradually increase.

One important phase of the capitalized plan of insurance, which is apt to escape notice on a casual consideration of the subject, is the aggregate size of the reserves

[1] See Dep. Atlantic City Conf., 296.
[2] See Rep. Fed. Com. U.S., 102.
[3] See ante, p. 104.
[4] See 24th Rep. U.S. Bur. Lab., pp. 2,032, 2,041; see also Bulletin 90, U.S. Bur. Lab., pp. 798, 799.
[5] See F. & D., 130, 131; Bulletin 90, U.S. Bur. Lab., 753.

necessary in a capitalized system of state insurance. In any large system, these reserves would reach immense proportions. In the State of Washington the reserve investments for the first six months of operation were over $111,000. It is easily seen even in that State with the natural increase in business and the extension of the system a very large fund will be built up.

In Germany, where the current cost plan was adopted from the beginning there is regularly assessed upon employers a margin of from 9 to 10 per cent. above the actual cost of the insurance, and this amount is being set aside as a reserve fund to provide for such contingencies as the entire wiping out of the industry or its inability to meet its payments in a period of financial depression. In the accident funds this reserve fund had in 1910, reached over $76,000,000. Strenuous objections are constantly being made on the part of employers against the piling up of this reserve. "On this subject the sentiment among employers is almost universal. They claim that even with its acknowledged faults this feature of their system is much superior to the methods used elsewhere in attempting to cover such deferred payments. They say that neither twenty-five years ago, when Germany started, nor now, are there statistics available upon which to base, with reasonable certainty, the future cost of accident compensation. They feel that it would be a most serious mistake to tie up the billions of dollars required to cover any reasonable estimate of deferred payments, and think that the withdrawal of such sums would do much more harm to German industrial development, which now needs all the available cash in the country, than any harm that can possibly come to future industries which necessarily will have to start under a heavier financial burden due to constantly increasing insurance premiums. They feel that such heavier burden is more than outweighed by the strenuous pioneer work which had to be done by the German industries at the beginning, and which must be done even now."[1] It is urged, also, in Germany that the maintenance of the reserve funds tends to extravagance and constant agitation. The existence of the funds is an invitation for greater and greater demands on the part of workmen, and a tendency on the part of the judges administering the law to allow claims not strictly justified. It may be argued that the money thus laid up in reserves is not lost, that it finds its way back into channels of commerce. This is in part true. But it is also true that funds so set aside have lost most of their fluidity and consequently much of their commercial efficacy.

The quotation above indicates also that even in Germany after many years of painstaking gathering of statistics, it is not possible to calculate accurately the capitalized cost of an injury. In a system just beginning such a calculation would be many times more difficult, and it has already been urged as one of the difficulties of employers' liability insurance, that in the absence of statistics and experience it is impracticable to make even an approximate guess as to the capitalized value of periodical compensation allowances. One of the great advantages of the current cost actuarial plan is that the necessity for actuarial experience is entirely obviated.

The direct economic advantages of the current cost plan of compensation insurance are outweighed in importance, however, by the more indirect effort of the plan in inducing preventive activity. The operation of the plan to this end as illustrated in the German system is discussed in a most interesting passage of the statement made before the Federal Commission by Mr. Miles M. Dawson.[2] It is there shown that the rapid rise in the insurance rate for the first few years is a marked factor in concentrating the attention of the employers upon the importance of accident

[1] S. & E., 41.
[2] See Rep. Fed. Com. U.S., 102, 106, and see Interim Rep. Ont. Com., 403.

prevention. The tables on the following page will show the course of the premium rates in some industries in Germany.[1]

It should be observed that these rates unaffected by preventive activity, would under actuarial calculation have continued to advance for a period varying in different industries from twenty to fifty years. And this advance would be accelerated by the tendency to increase the speed of production and other modern factors tending to increase hazard.

But the tables show that the rise in rates was very early interrupted and this was undoubtedly by reason of accident prevention. Thus in the agricultural implement machinery class, the rate, starting at 0.32 per cent., reached in seventeen years 2.07 per cent., and has since fluctuated very little, though in 1908 it reached 2.11 per cent.

In the carpentry class the maximum of 2.80 per cent. was reached in eight years and since that time the rate has been materially lower. Railways, starting at .39 per cent., in seven years reached 1.80 per cent. and thereafter declined for some years, the present rate being about 1.85 per cent. A similar course is shown in most of the other classes. It is not difficult to see how the rapid increase in rates during the earlier period of the system would call increasing attention to the necessity of prevention, and the great success of the German system of accident prevention is largely ascribed to this factor. If there were nothing to commend the current cost plan of insurance except its influence in the direction of accident prevention, there would be in this aspect alone a sufficient warrant for its adoption and for the rejection of any plan of compensation incompatible with it.

[1] Taken from brief of M. M. Dawson, Rep. Fed. Com. U.S., 277. See also Bulletin 90, U.S. Bur. Lab., 749.

RATES IN GERMANY—INSURANCE OF EMPLOYERS IN MUTUAL FUNDS.

——	1886	1887	1888	1889	1890	1891	1892	1893	1894	1895	1896	1897	1898	1899	1900	1901	1902	1903	1904	1905	1906	1907	1908
Agricultural Machinery Works	.32	.70	.82	.71	.80	1.12	1.32	1.19	1.21	1.23	1.14	.96	1.05	1.23	1.36	1.69	2.03	2.07	1.99	2.02	1.87	1.84	2.11
Beer Bottling and Shipping Concerns	1.73	1.83	2.81	1.52	1.66	1.62	2.09	1.64	1.66	1.60	1.60	1.19	1.28	1.34	1.37	1.53	1.80	1.77	1.73	1.71	1.70	1.77	1.89
Carpentry (general contract)	.49	1.10	1.39	1.33	1.45	1.56	1.90	2.46	2.80	3.07	2.80	2.42	2.29	2.00	1.91	2.42	2.47	2.37	2.29	2.18	2.03	2.14	2.32
Carpet Factories	.26	.42	.47	.44	.55	.57	.61	.60	.69	.60	.62	.60	.60	.66	.71	.94	.98	1.00	1.04	1.08	1.08	1.04	1.12
Carriage Factories	.32	.70	.83	.71	.80	.50	.59	.60	.61	.62	.57	.48	.52	.86	.95	1.19	1.42	1.45	1.20	1.21	1.12	1.11	.84
Dyeing Establishments (power)	.39	.64	.70	.67	.64	.66	.71	.70	.81	.70	.73	.70	.70	.77	.83	1.10	1.14	1.17	1.27	1.32	1.31	1.28	1.36
Flour Mills (steam power)	1.20	1.22	1.51	1.61	1.75	1.74	1.86	1.95	2.07	2.25	2.29	2.20	2.23	2.31	2.54	3.14	3.31	3.48	3.53	3.57	3.64	3.43	3.66
Furniture Factories (wood)	1.13	1.30	.77	.75	.82	.90	1.02	1.84	1.99	2.03	1.95	1.69	1.50	1.51	1.72	1.96	2.14	2.07	1.95	2.00	1.91	1.89	1.93
Metal Pressing, Stamping, etc.	.35	.46	.53	.47	.46	.52	.58	.55	.52	.50	.47	.44	.44	.38	.41	.53	.64	.66	.77	.80	.82	.83	.88
Paint Factories (color factories)	.37	.94	1.22	1.28	1.32	1.39	1.45	1.47	1.38	1.39	1.30	1.28	1.20	1.13	1.16	1.45	1.58	1.61	1.71	1.72	1.68	1.62	1.70
Paperhanging	.39	.88	.93	.89	.97	1.04	1.27	.41	.47	.51	.47	.40	.38	.40	.38	.48	.49	.47	.46	.44	.41	.43	.48
Powder Factories (black)	.75	1.88	2.44	2.57	2.64	2.78	2.90	2.93	3.84	3.87	3.61	3.27	3.06	3.11	3.20	4.00	4.34	4.44	4.05	4.09	4.00	3.84	4.04
Railways (steam)	.39	.79	1.26	1.38	1.49	1.52	1.68	1.80	1.72	1.56	1.43	1.26	1.30	1.34	1.42	1.63	1.81	1.89	1.83	1.84	1.82	1.76	1.82
Saw Mills	1.59	1.82	2.79	2.70	2.97	3.23	3.68	3.06	3.31	3.38	3.26	2.82	3.01	3.02	3.44	3.92	4.28	4.32	4.07	4.19	3.99	3.95	4.19
Sewing Machine Factories	.44	.33	.45	.41	.33	.36	.41	.46	.52	.45	.41	.39	.24	.26	.27	.33	.38	40	.39	.39	.37	.33	.35
Shipbuilding Plants	.47	1.05	1.24	1.06	1.19	1.12	1.32	1.49	1.52	1.54	1.42	1.20	1.31	1.60	1.77	2.20	2.64	2.69	2.59	2.63	2.43	2.40	2.74

RECOMMENDATIONS.

Nature of System.

The one outstanding and inevitable result of the analysis of principles and comparison of systems in the foregoing pages, is the negative conclusion that no system of individual employers' liability, however broadly that liability may be extended, will afford a solution, permanently or even temporarily satisfactory, for the problem of workmen's compensation. Only two other alternatives are open—either a collective liability or a state liability system. It has been pointed out that these systems are not essentially dissimilar, the differences being theoretical rather than practical. It is submitted that the system most likely to be satisfactory, under all the circumstances, for the Province of Ontario is a collective system under state administration and control. It is proposed that the funds for compensation should be collected by grouping the various industries and occupations of the province, and assessing upon each group its proper insurance premium. As an illustration, the wood-working industries of the province should be placed in one group and should bear the cost of all injuries occurring in connection with that industry. It would not be necessary or advisable that all employers in wood-working industries should bear the same rate of insurance, but such variations as were found from experience or otherwise to be necessary or advisable should be made by way of sub-classification.

Administrative Body.

It is submitted that the system of compensation should be administered by a Government Commission, a form of administration well understood in this country and well adapted for dealing with a subject involving so many complex and technical considerations. It is suggested that the Commission be called the Industrial Insurance Commission or Board, and that it consist of three Commissioners appointed by the Government. The Commission should be, as far as possible, removed from the influence of party politics. Neither in the adjudication of claims nor in the fixing of rates of insurance should the Commission be under the direct control of, or directly responsible to, the Government on its judicial side. The Commission should be as independent of the executive as judicial bodies usually are in this and other Anglo-Saxon countries, and the business side of the system should be conducted upon strict business lines. It is urged that in personnel, salary and otherwise the Commission should rank at least with the High Court judgeship.

Powers of Commission.

The working out of the details of the system should, it is submitted, be left as largely as possible to the Commission, the act defining clearly the scope of its powers and the scale of compensation, and generally outlining the procedure and operation.

Methods of Collecting Funds.

As to the method of collecting funds it is submitted that this could be done either through the banks or through the agency of the municipal officials or through both. Forms could be sent out to employers upon which to report as to the amount or estimated amount of the pay-roll. In case of default in reporting and in the case of all smaller employers, the municipal assessor might be required to make the necessary report. All employers within the scope of the system might be required

to report directly to the Department, with appropriate penalties if it were left over for the assessor. The Commissioners should have a certain number of auditors for the purpose of auditing the pay-rolls of employers and checking over the reports of assessors.

Actuarial Method.

It is submitted, as already indicated, that the insurance rates should be based upon the current cost plan as distinguished from the capitalized plan. In other words it is proposed that the annual assessments upon employers shall represent only the cost of the current year's compensation payments with merely a small margin for an emergency reserve fund. This is an essential feature of the proposition embodied in the brief, and any other plan would be unacceptable to the employers represented herein.

It is believed that there may be instances where it would be advisable to collect the full estimated capital fee. An example would be the case of a foreign contractor, temporarily engaged in building operations in the province. But the general rule should be the assessment of the current year's requirements for compensation outlay.

It is submitted that it might be wise to place the fund for each class of industry at an early stage, on a footing which would render it unnecessary to assess premiums in advance. The rates in each class could be made high enough for the first few years to provide a reserve sufficient to tide over one year. The assessments could then be made at the end of the year and the double work incidental to assessments on estimates and their readjustment would be obviated.

It is submitted that it would be inconvenient to include the schedule of rates in the statute establishing the system. The schedule will be a subject for a technical actuarial treatment in the first instance, and merely a matter of adjusting and collecting the amount required for the year.

The grouping of industries for assessment purposes is a matter also for expert actuarial treatment, but it has also practical phases which might make it advisable to provide a preliminary classification in the Act itself. But the commission should have power to combine and sub-classify as experience may demand.

Control of Rates.

Subject to some provision insuring that the rates of insurance shall in general be based on the current cost plan, the rates should be entirely under the control of the Commission. Facilities should be afforded, however, for the hearing of applications, complaints, and representations on behalf of individual employers or associations representing groups of employers with respect to rates, classifications and other matters connected with the administration of the system.

Adjustment of Claims.

Claims for compensation should be adjusted by the Commission. It might be found possible eventually to delegate the adjustment of ordinary claims to subordinate adjusters: or to adjust claims *pro forma* upon the report of a secretary or other subordinate official, who would examine the application and report to the commission thereon. But in the formative stages of the system when precedents and policies are being established it is submitted that every claim should come before the Commission itself for decision.

As already suggested the Commission could adjust claims in most cases upon duly verified reports from the injured workman or his representative, from the employer or his foreman or superintendent and from the attending physician. If any dispute of fact were disclosed by these reports evidence could be taken by the Commission, or a special officer could be sent to investigate and report upon the case.

Appeals.

In adjudicating upon claims the decision of the Commission should it is submitted, be final upon questions of fact. It is suggested that an appeal might lie in questions of law (which would be rare) to the Court of Appeal for Ontario. It is further suggested that for the purpose of deciding upon such questions of law there should be facilities for the submission of stated cases by the Commission itself and that appeals should, where possible, be brought in this form.

Method of paying compensation.

As to the payment of periodical compensation allowances it is submitted that this could be effected through the agency of the banks. Warrants could be sent out to those entitled to compensation, payable upon presentation to any bank. It would be very convenient, if it were possible to make an arrangement with the Dominion Government, to utilize the Post Office for the payment of compensation claims. If the banks were used as above suggested the funds of the Department might be apportioned amongst the various banks in deposits proportionate to the service rendered.

Employers' Associations.

The difference between such a system as that here recommended and the German system is that the collection of premiums and the adjudication of claims, which in Germany are functions primarily exercised by the employers' associations, would under the proposed system be assumed by the state. The balance of the functions of the German employers' associations could, and doubtless would, be assumed by associations voluntarily formed and corresponding generally to the groups into which employers were divided for assessment purposes. The state having assumed the functions of collection and dispersion of funds, the formation of the associations would not be a vital necessity and the compensation system would operate notwithstanding the absence of the associations; but there can be no doubt that there would be strong inducements upon employers to organize for the purpose of co-operative effort in preventing accidents, and otherwise promoting efficiency and economy in the administration of the system. It is submitted that the Act should afford practical facilities for the organization of such voluntary associations and for their participation and assistance in the operation of the system.

Provision might be made for the approval by the Commission of the constitution of such associations and their official recognition. Such associations might be given power, under the supervision of the Commission, to engage experts in accident prevention payable out of the accident insurance fund. They might also be given the power to make and enforce rules approved by the Commission for the prevention of accidents, and to act in other ways calculated to promote the success of the system.

First Aid Funds.

It is submitted that the benefit societies which are now in operation in many industries should be, as far as possible, preserved. In order to secure a suitable scope for these societies and in order to provide facilities for prompt medical and hospital attention, and generally for the co-operation of employees with employers in promoting safety, a separate fund should be established to cover the first few weeks. Out of this fund should be paid medical and hospital expenses and compensation for the earlier weeks after an injury. The suggestion is made that this period should cover, as in Germany and in most other countries, the first thirteen weeks.

It is submitted that the premiums for the first aid fund should be collected in the same way and at the same time as the premiums for the larger fund. But it is suggested that after being collected the money might be handed over to local benefit societies working under constitutions approved by the Commission, for administration. Where such benefit societies did not exist the money could be handled by the central department.

Of the premiums for the first aid fund it is submitted that workmen should pay a substantial proportion, and that each workman's portion should be deducted monthly or quarterly from his wages.

F W. Wegenast.
Solicitor, Canadian Manufacturers' Association.

Appendices

APPENDIX I.

COMPARISON OF UNITED STATES AND GERMAN STATISTICS.[1]

No.	Occupations.	Population.	
		Germany, 1907.	United States, 1900.
1	Agriculture, Horticulture, Stock Raising, Forestry, etc..	9,883,257	10,381 765
2	Industry	11,256,254	7,085,309
3	Trade and Transportation	3,477,626	4,766,964
4	Domestic and Personal Service	471,695	5,580,657
5	Professional and Public Service	1,738,530	1,258,538
	Totals	26,827,362	29,073,233

Public Officials and Soldiers in the United States are covered under No. 4, in Germany under No. 5.

APPENDIX II.

STATISTICAL EXPERIENCE OF WORKINGMEN UNDER THE OPERATION OF COMPULSORY STATE INSURANCE IN GERMANY.

BRIEF OF J. HARRINGTON BOYD, BEFORE FEDERAL COMMISSION ON WORKMEN'S COMPENSATION—P. 73.

In 1887 there were insured against sickness and accidents in Germany 3,861,560 workingmen among 319,453 establishments,[2] and the number of notices of accidents was 106,101. A special analysis of the different elements of the causes of these accidents will be found below:

In 1907, insured in Germany against accidents:[3]

	Persons Injured.
Industrial, building, and marine trade associations (Associations, 66; establishments, 637,118)	9,018,367
Agriculture and forestry trade associations (Associations, 48; establishments, 4,710,401)	11,189,071
State executive boards (boards, 535)	964,589
	21,172,027

In 1897 there were insured in Germany against accidents in the same associations and 409 State executive boards, in round numbers[2] 18,500,000.

[1] S. & E., 25.
[2] Fourth Special Report of the Commission of Labor, 1893.
[3] F. & D., 101.

APPENDIX III.

EXCERPTS FROM ARTICLE ON "THE ROAD TO SOCIAL EFFICIENCY," BY LOUIS A. BRANDEIS, IN NEW YORK OUTLOOK, JUNE 10TH, 1911. SHOWING POSSIBILITIES IN THE FIELD OF ACCIDENT PREVENTION.

Possibilities of lengthening lives and of avoiding sickness and invalidity, like the possibilities of preventing accidents, will be availed of *when business as well as humanity demands that this be done.*

William Hard quoted Edward T. Davies, the Factory Inspector of Illinois, as saying that in the year 1906 one hundred men were killed or crippled in the factories of Illinois by the set-screw, and that for thirty-five cents in each instance this danger device could have been recast into a safety device. The set-screw stands up from the surface of the rapidly revolving shaft, and as it turns catches dangerously hands and clothes. For thirty-five cents the projecting top of the set-screw could be sunk flush with the rest of the whirling surface of the shaft, and then no sleeve could be entangled by it, and no human body could be swung and thrown by it.

The South Metropolitan Gas Company, which established, in connection with its system of compensation for accidents, a system of inquiry into all accidents with a view to their prevention, reduced the number of accidents per thousand in seven years from sixty-nine to forty.

Jack Calder, of Ilion, New York, tells of the reduction of accidents in an American plant of a yearly average of two hundred to sixty-four.

Can there be any doubt that if every accident had to be investigated carefully and adequately compensated for, the number of accidents would be reduced to a half or a third.

The social and industrial engineers will find much of inspiration and encouragement in the achievement of their fellow-engineers of the factory mutual fire insurance companies of New England.

The huge fire waste in America is a matter of common knowledge. The loss in 1910 was estimated at $234,000,000; and yet there is one class of property, in its nature peculiarly subject to fire risks, which was practically immune. Some 2,600 factories and their contents valued together at about $2,220,000,000 and scattered throughout twenty-four States and the Dominion of Canada, suffered in the aggregate fire losses of about one-fortieth of one per cent. of the value insured. The factories so immune were those owned by members of the so-called "factory mutuals" of New England. The cost of these factories for fire insurance and fire prevention in the year 1910 was only forty-three cents for each one thousand dollars of property insurance. Half a century before the cost of insurance to the New England factories was $4.30, or ten times as great. The record of the "factory mutuals" of Rhode Island and of some other States is similar.

Now, how has this reduction of fire insurance cost been accomplished? It was done by recognizing that the purpose of these so-called fire insurance companies is not to pay losses but to prevent fires. These mutual companies might more appropriately have been called Fire Prevention Companies: for the losses paid represent merely instances of failure in their main purpose. In these corporations the important officials are not the financiers but the engineers—men who rank among the leaders in the engineering profession of America—and aiding them is a most efficient corps of inspectors.

The achievement of these factory mutuals—the elimination of ninety per cent. of the risks—is the result of sixty years of unremitting effort in ascertaining and

removing causes of fires and incidentally educating factory-owners and their employees in the importance of providing against these causes. The premiums paid represent the cost of this advice, inspection and education as much as the cost of what is ordinarily termed insurance.

The progress of the factory mutuals in reducing fire losses was relatively slow, but it has been steady, as is shown in the following table of net cost of fire insurance per $1,000 per year in two representative companies:

Years.	Boston Manufacturers Mutual Fire Insurance Company.	Arkwright Mutual Fire Insurance Company.
1850–60	$4 37	.....
1861–70	2 79	$3 37
1871–80	2 54	3 00
1881–90	2 27	2 16
1891–1900	1 44	1 54
1901–1910	0 68	0 69
Year 1910	0 44	0 43

Possibilities no less alluring are open to the social and industrial engineer. Will the community support their efforts?

APPENDIX IV.

ANALYSIS OF DRAFT BILL OF STATE OF WASHINGTON.

By Harold Preston, Solicitor for Investigating Commission and Draftsman of the Act.

The proposed Washington Act abrogates the doctrine of negligence as between employer and workman: removes the subject from the domain of private controversy: asserts and assumes the subject to be within the police power of the state; and deprives the courts of jurisdiction in the premises, except in the administration of the act. There are certain exceptions: (1) Where the injury was caused by the intent of the employer to produce it: (2) Where the injury is caused by the intent of the workman to produce it: and (3) Where the employer upon demand refuses to contribute to the fund for the creation of which provision is made in the act. In the case of (1) the workman takes under the act and may sue the employer for any excess of damage over the amount received under the act. In the case of (2) the workman receives nothing under the act: and in the case of (3) the employer is suable at law, the defences of fellow workman and assumption of risk abolished and the doctrine of comparative negligence established.

The act applies only to occupations defined in the act as "extra hazardous." There are two funds provided for by the act: the first-aid fund, and the accident fund. The first aid fund is created by the monthly payment into the state treasury by each employer of four cents per day for each day's work done for him during the preceding month. Of this he deducts two cents from the wages of the workmen. Out of this fund all injured workmen receive the necessary medical, surgical and hospital attendance so long as required, and also for the first three weeks of incapacity $5.00 per week. The accident fund is created by the payment into the

state treasury by such employer of a certain percentage of his annual pay-roll, the percentage varying with the degree of hazard inherent in the occupation. It is paid annually in advance, calculated upon the past year's pay-roll; if there is none such, upon an estimated pay-roll. The department may permit the payment to be made in quarterly instalments. At the end of the year an adjustment is to be made. Undue carelessness upon the part of any employer may result in the increase (for future application) of his rate of contribution. At the end of each year an accounting is had with each class of industries, and if it proves to have paid in too much the excess is refunded; but, on the other hand, it too little, the deficiency is made good upon the same basis as the original contribution.

Out of the accident fund cases of death or incapacity over three weeks are cared for. Permanent partial injuries are compensated in lump sum payments, $1,500 being the maximum amount, and the loss of a major arm at or above the elbow, the maximum injury. Lesser permanent partial injuries are compensated in proportion. All other cases are compensated in monthly payments. These may be converted, in whole, or in part, into lump sum payments in the discretion of the department, the previous application of the beneficiary being necessary, except where the beneficiary removes from the state. The amount of lump sum payments may be settled by agreement between the beneficiary and the department within a certain limitation, to-wit: that a payment of $20 per month to a person 30 years of age is worth $4,000, each settlement being based upon the expectancy of life under the American Mortality Tables. The monthly compensation is all at flat amounts. The earning power is not taken into consideration (except in one case hereinafter referred to). In death cases funeral expenses not to exceed $75 are paid. If the decedent was unmarried and had no dependent, no further payment is made. A dependent is a relative (among an enumerated list) who was receiving actual pecuniary assistance from the decedent, prior to his death (he having been unmarried at the time of his death). Such a dependent receives monthly one-half of one-twelfth of the amount of pecuniary assistance actually rendered the dependent by the decedent during the year preceding the accident. If the decedent left a widow she receives $20 a month as long as she shall live unmarried. Upon remarriage she receives twelve monthly payments and no more. The widow receives $5 extra per month for each child, not to exceed $15 per month. If orphan children survive they receive $10 per month each, not to exceed $35 for all of them. Payments to or on account of a child cease when the child becomes 16 years of age. If the workman survives the acident and is permanently totally incapacitated he receives, if unmarried, $20 per month so long as the total incapacity continues. If married, he receives $5 per month extra and $5 per month extra for each child, the total not to exceed $35 per month (and the payment on account of any child ceasing at the sixteenth birthday). If the incapacity is only temporary, the same monthly payments are made increased for the first six months 50 per cent., provided that the increase shall not operate to make the monthly payment exceed 60 per cent. of the monthly wage. As long as the injured workman is able to make earnings in any way the monthly payment is scaled down accordingly.

If the accident is brought about because of the absence of any safeguard or protective device required by statute or ordinance or by public regulation under any statute, the employer is required to pay into the fund 50 per cent. of the payment made out of the fund on account of the injury, if he is responsible for the absence of the safeguard. Whereas, if the workman is responsible for its absence, his compensation is reduced 10 per cent.

A State Department is created to administer the act, composed of three com-

missioners appointed by the Governor. The legislature appropriated $150,000 out of the general fund to pay the operating expenses of the department until the next legislative session. Except as to a few matters left discretionary with the department, appeal lies to the courts from the decision of the department at the instance of any person feeling aggrieved, such appeal to be only upon questions of fact or proper construction of the act. The proceeding is informal and summary; jury trials being provided only in cases arising under the penalizing provisions of the act. If the department ruling is reversed or modified the proper fund must bear the expense of the litigation, including the attorney's fee to be fixed by the court.

The intent is declared that the fund shall be no more and no less than self supporting. Every dollar paid in by employers must go to injured workmen, except in case the expense appropriation should run out between sessions, in which case the deficit is made good, 85 per cent., out of the first aid fund and 15 per cent. out of the accident fund. The State Treasurer is required to keep the funds invested at interest in the class of securities provided by law for the investment of the permanent school fund, and any uninvested funds to be kept on deposit at interest on daily balances in such banks as have been approved by the State Board of Finance.

In order that each year may provide for its own expenses the State Treasurer is required, as soon as the liability of the fund is determined in any individual case, to segregate from the fund the amount necessary (subject to the $4,000 maximum) to take care of that case and keep it invested, as above stated, being privileged to borrow from the general fund for that case moneys necessary to meet monthly payments, pending a conversion into cash of a security belonging to the case.

APPENDIX V.

December 27, 1911.

F. W. Wegenast, Esq.,

General Counsel, Canadian Manufacturers Association, Toronto, Canada.

Dear Sir: Your favour of the 21st instant received. I have read with much interest the report of your Special Committee, with the preparation of which I have no doubt you personally took considerable part. I think the report is splendid and hope it will have good results in connection with the framing of your proposed legislation.

There are two points in it where I am in disagreement. The first is in speaking of the Washington plan as a plan of state insurance. I think it would be more correctly described as a system of collective liability administered by the State. At the same time, your recommendation of the State being back of the fund is a good one. In some of the earlier drafts of the bill I had it provided that if an injured workman found a deficit in the fund applicable to his case, the State should make it good out of its general fund and then recoup itself later out of the industry involved. We have the constitutional provision forbidding the State to loan its credit to any other than a public use, and we had decisions in other States passing upon like constitutional provisions which rendered the provision, as I had it so incorporated, of doubtful constitutionality. The line of argument pursued by these decisions referred to was that the contribution of the state was not confined to cases of pauperism; in other words, the injured workman might have money in the bank and

other property and still receive the same aid as the indigent injured workman. You have no such constitutional clause to contend with and, therefore, you are in a position to improve upon our work in that respect.

The other point is the non-provision by the present for the liabilities of the present, although I acknowledge that your plan has much in its favour because it is the first step to be taken. The first step being so taken, in the course of a few years statistics will be gathered, the plan better understood, and it might then become possible and advisable to make the present care for its own cases.

Yours truly,
HAROLD PRESTON.

APPFNDIX VI.

EXTRACT FROM THE NEW YORK JOURNAL OF COMMERCE, NOVEMBER 11TH, 1911, PER.

BAD LIABILITY LOSS.

IN STATE OF WASHINGTON UNDER THE NEW LAW.

The news comes from Seattle, Wash. that George A. Lee, Chairman of the Industrial Insurance Commission, has announced that the claims for the death of eight girls in the powder mill horror at Chehalis, Wash., must under the law be paid by assessments levied on the powder manufacturers of the State. There are only three concerns engaged in this industry and it is likely that the assessments will be heavy. At present there is about $270 in this branch of the insurance fund to pay the claims. The maximum which can be allowed the claimants is $32,000, or $4,000 for each death, but it is the opinion of the Attorney-General that the law does not require the payment of $4,000 for the death of a minor.

Just exactly what is the economic value of a minor is a question which the Attorney-General and the Industrial Insurance Commission will be called upon to decide shortly. The section of the Workmen's Compensation Act which will likely apply to the Chehalis case is as follows:

"If the workman is under the age of twenty-one years and unmarried at the time of his death, the parents shall receive $20 per month for each month after his death until the time at which he would have arrived at the age of twenty-one years."

Whether sub-section (*e*) of Section 5 applies to minors is a point which must be passed upon by the Attorney-General. The question has never been raised before the Commission. The division referred to reads as follows:

"For every case of injury resulting in death or permanent total disability, it shall be the duty of the department to forthwith notify the State Treasurer, and he shall set apart, out of the accident fund, a sum of money for the case, to be known as the estimated lump sum value of the monthly payments provided for it, to be calculated upon the theory that a monthly payment of $20 to a person thirty years of age is equal to a lump-sum payment, according to the expectancy of life, as fixed by the American mortality table, of $4,000, but the total is in no case to exceed the sum of $4,000."

In no case will any other industry in the state but the powder mills be affected by the Chehalis tragedy. The law makes no provision for borrowing from any

other branch of the accident fund. The powder mills must bear the burden of the accidents in their own class without reference to any other industry. In the event that the Commission allows the claim on the basis that the parents or dependents of the girls shall receive $20 a month until such a time as they would have arrived at the age of twenty-one years, the total expense of the claims will be approximately as follows:

Vera Mulford, aged 14	$1,680
Bertha Crowne, aged 16	1,200
Tillie Rosbach, aged 18	720
Sadie Westfall, aged 16	1,200
Eva Gilmore, aged 17	960
Bertha Nagle, aged 17	960
Ethel Tharp, aged 20	200
Mrs. Ethel Henry (who leaves seven-month-old baby)	3,700
Total	$10,660

The $270 in the powder company fund was paid in by the Imperial Company and the Puget Sound Alaska Company, on the basis of ten per cent. of the pay-roll.

The DuPont Company has not paid in its first assessment. It objected to being assessed at the same rate as the other companies, and wanted a lower rate. Commissioner C. A. Pratt and J. H. Wallace inspected the plant, and say that the company has done everything possible to protect its workers, but the law fixes the schedule of rates. However, the law fixes the minimum and now the Imperial Company may be assessed a higher rate than any other company. It will probably be some time before the matter is straightened out by the officials. The law has been held constitutional by the Supreme Court, but its various sections have not been interpreted up to this time. The point as to whether $4,000 has to be set aside for the death of each minor is the most important of these raised up to the present time.

APPENDIX VII.

OLYMPIA, WASH., Dec. 20th, 1911

F. W. WEGENAST, ESQ.,
General Counsel, Canadian Manufacturers' Association, Toronto, Ont.

Your communication of recent date to hand. We were very much surprised indeed to observe the statement made by .....; it is an absolute mis-statement of the facts. Attached hereto you will find a tabulation of the payments into, and disbursements out of the 47 funds listed in our law, and No. 48, which is the "Non-hazardous elective." You will observe that we have taken in nearly $100,000.00 and paid out to date less than $14,000.00.

The only important fact which the powder class, No. 46 teaches is the undesirability of small classes. It does not give sufficient opportunity for distribution of risk. In our State, the situation is aggravated in this one small class by the fact that the big DuPont Powder Company have so far refused to pay, proposing to contest the constitutionality of our law in the Federal Courts.

I attach hereto a communication issued by the State Federation of Labour which is eloquent of the appreciation of this State.

Our objection in Washington to the English Act and the New York Act are discussed in that paper. They are principally:

1. Dependants cast off on to charity after a brief term of years.
2. The slow and costly court machinery retained.
3. Economic waste in payment of unnecessary lawyers and casualty companies.
4. Employers' funds drained out of the State.
5. State activity and public education for accident prevention not emphasized.
6. Rates governed by competition and conditions in other states rather than our own.
7. Statistical work by the state important to public welfare not performed.

With due seasonal greetings, I am

Very cordially yours,

The Industrial Insurance Commission.

By HAMILTON HIGDAY,

Commissioner.

APPENDIX VIII.

COPY OF CIRCULAR.

WASHINGTON STATE FEDERATION OF LABOUR.

To the Trade Unions of the State, Greeting:

The Workmen's Compensation Act which became effective October first, is daily demonstrating its value to the injured workmen. Under its provisions many victims of industrial accidents are receiving compensation, who, under the old system, would have become a burden upon friends or subjects of charity. Two months of experience has, however, demonstrated the necessity of every organization, whether labour, fraternal, or social, that has the welfare of its membership at heart, participating more actively in the securing of prompt attention in behalf of its membership.

Employers who have hitherto felt called upon to guard against the possibility of recovery of damages are slow to awake to a realization of the changes effected by the new law.

Casualty Companies that have derived immense profits under past conditions, are opponents of a system that takes away their source of revenue. Ambulance-chasing lawyers, who have lived off damage suits, which they were able to promote under the old liability system, are joining hands with agents of Casualty companies and opposing employers in an endeavour to discredit the new law.

It is the duty of our organizations to rally to its support, and gain for our membership full and prompt returns for injured workmen. To that end each organization should instruct its officers or the proper committees:

First: To secure from the Industrial Insurance Commission, Olympia, Wn. copies of the law and necessary blanks to be filled out in case of injuries to employees received in the course of their employment.

Second: To thoroughly familiarize themselves with the law.

Third: To look after injured members, or in case of death, their heirs, and see that necessary blanks are promptly filled out and forwarded to the Commission.

Fourth: To report to your organization and the State Federation of Labour any defects found in the law, its operation, enforcement, and other difficulty encountered to the end that we may look to a future adjustment of same.

Bear in mind that every injury should be reported whether serious or not; that all injured workmen in hazardous employments are entitled to compensation from the day of injury. Aid them in getting it, and you will not only aid the needy but lessen the drain upon your local treasuries.

For your convenience we enclose card properly addressed upon which you can designate your needs as to copies of law and blank forms which should be kept on file by the organization in order to make prompt reports.

Trusting that you will co-operate fully with us in making a success of this important legislation, we remain.

Yours fraternally,

CHARLES PERRY TAYLOR,
Secy-Treas.

CHAS. R. CASE,
President.

APPENDIX IX.

OLYMPIA, WASH, Dec. 20th, 1911.

The Governor,
Lansing, Michigan.

My dear Sir:

The attention of this Commission has been called to a report to the effect that one of the members of your Compensation Commission "has just returned from Washington and found there a most lamentable condition of affairs. The liabilities already accrued against the State exceed by an enormous amount the amount of money on hand. There was an explosion there where I understand nine lives were lost, making an aggregate liability of $27,000, and there was only $177.00 in the State treasury. Then, too, the State is being deluged with all sorts of petty claims; every man who has a finger hurt seems to think the State treasurer must recompense him."

This Commission has no interest in the particular system of legislation your Commission approves, but it is unfair to this State and to Michigan that such an absolute misrepresentation of the true facts stand uncorrected.

The compulsory State Insurance fund now amounts to about $400,000.00 contributed by approximately 5,000 establishments grouped by the law into 47 classes of "compulsory associations" according to similar trades and hazards. Out of this fund there has been disbursed to date less than $15,000.00. That the law and the policy and practices of this commission are approved by the beneficiaries is best evidenced by a circular letter issued to all locals by the Washington State Federation of Labor urging the closest co-operation on all working people.

The sole basis for the untrue statement above quoted is that our class 46, Powder Works, embraces only four establishments in this State, all small except that of the DuPont Company commonly known as the Powder Trust. The small plants contributed to the accident fund, the large plant proposes to test in the

Federal Courts the constitutionality of our law which was unanimously sustained by our State Supreme Court, Sept. 27th, 1911. An explosion in one of the small plants resulted in the loss of eight young girls who had been permitted to work in the same room in close proximity to large stores of powder. The fund is sufficient for the payment of the pension provided by law to the parents of these girls for a considerable period, but until the very large powder company contributes its quota, the setting aside of the reserve to the parents of those children required by law must be deferred.

Respecting the filing of numerous trivial reports, that statement is correct since our law requires the employer to report "any accident," and with the beginning of its operation, October 1st, the employers were endeavouring to comply heartily in every detail. However, notwithstanding the unfortunate fact that there is no "first aid fund" (same having been stricken out in the legislature), the Commission does not compensate for any injury unless actually compelling the workingman to abandon his job for a period which results in the loss of more than 5 per cent. of his monthly wage.

The employers of the State are almost unanimously in hearty accord with this law and its present administration. They have learned that while the rates fixed by the legislature are unquestionably higher than casualty companies have insured them for heretofore, yet those rates were contributed only a three month's payroll, and no more payments are to be made to any of the 47 funds except such fund be first reasonably drained by the accidents of that class: in other words, they are assessed on the pay-rolls at the rate named only occasionally as necessary.

Furthermore, they appreciate that while casualty companies insured them against legal liability which applied to about fifteen per cent. of the accidents, this law compensates the workmen in about 100 per cent. of work accidents without regard to fault. In the face of this, we believe it will be demonstrated that the actual rates which can only be determined after a year or two, will in fact, be less than their outlay heretofore, without considering their loss of time and incidental expenses incident to the litigation system.

Yours respectfully,

THE INDUSTRIAL INSURANCE COMMISSION, PER.

APPENDIX X.

LETTER FROM LARSON LUMBER CO.

SEATTLE, WASH., Nov. 17th, 1911.

MR. R. H. H. ALEXANDER,

Secretary, British Columbia Branch Canadian Manufacturers' Association.
441 Seymour Street, Vancouver, B.C.

Dear Sir,

In response to yours of Nov. 13th, I desire to say that the workings of the Workmen's Compensation Act in this State during the six weeks of its trial so far have been eminently satisfactory. Of course, this is altogether too short a

time to form a comprehensive conclusion. From the viewpoint of the employer, however, I have preferred to carry my individual risk in the past. Our company did not carry liability insurance for some time, but we set aside one per cent. of the pay rolls to cover sums paid to injured workmen. We endeavoured to pay all employees some compensation, whether we were liable or not and I have found in the course of several years' experience, that one per cent. of the pay rolls covering the mills and camps was sufficient to pay ordinary losses. There is a feature of extraordinary losses staring one in the face, however. The compensation Act protects the individual against any extraordinary heavy loss such as might arise from the bursting of a boiler for example.

On account of my previous experience, as outlined above, I was somewhat opposed to the State's Compensation Act, as their charge contemplated a cost of two and one-half per cent. on the payroll. However, we were able to get an amendment, which made the two and a half per cent. an advance and made the subsequent assessment cover only actual losses paid.

Answering Mr. Wegenast's question as to whether the system is preferable from an employer's standpoint to the common law system of the alternate of the individual liability; I am inclined to the belief that it is vastly superior to the old common law, especially as it has been practised in the Western States, and I believe on account of the liability of extra hazard it is preferable to the individual liability of employers. Of course, as I said, all is in the nature of an experiment, being somewhat more advanced and socialistic than any other in existence. I opposed it in the beginning as stated above, but am now convinced that law can generally be administered to the satisfaction of employers and to the relief of employees, whereas before very little of the actual money paid reached the injured party.

I trust that this answers your questions. With personal regards, I remain,

Very truly yours,

J. W. Bloedel.

APPENDIX XI.

INDUSTRIAL INSURANCE COMMISSION.

Statement of Funds in Classes 7, 10, and 29, on January 15th, 1912, per.

The three classes created by the Industrial Insurance Commission under the Workmen's Compensation Act in which we are particularly interested are classes 7, 10, and 29. Through the courtesy of the Commission we have secured the figures showing the status of the fund in these classes at the close of business on January 15th.

We have been promised these same figures every month in time for publication in the bulletin and we would advise members to file copies and compare the figures from month to month. It is of great importance that we watch this matter carefully. If it is found that the fund is decreasing and that the receipts on the present rate are not going to be enough to meet the claims decided by the commission to be justified, then one of two things must happen—either the rate will have to be raised or the number of accidents must be cut down. Needless to say we will strive for the latter.

It is also true that with reduction in the number of accidents the rate will be reduced and to that end we should bend every effort.

CLASS 7. INCLUDING CONSTRUCTION AND OPERATION OF STEAM AND LOGGING RAILROADS.

Number of contributions, 147; amount paid in	$26,308 42
Number of claims paid, 24; amount paid on claims	2,888 00
Balance in Fund	$23,420 42

CLASS 10. INCLUDING LUMBERING AND MILLING.

Number of contributions, 728; total amount paid in	$148,017 53
Number of claims paid, 349; amount paid on claims	17,030 33
Balance in Fund	$130,987 20

CLASS 29. INCLUDING PLANING MILLS, SASH AND DOORS, ETC.

Number of contributions, 242; total amount paid in	$15,596 77
Number of claims paid, 23; amount paid on claims	1,907 85
Balance in Fund	$13,688 92

A number of claims are now being investigated and others are in process of entry, which will considerably increase the payment on account of accidents which have occurred during October, November and December.

APPENDIX XII.

DR. FRIEDENSBURG'S PAMPHLET.

Some newspaper attention has recently been attracted by a pamphlet[1] in which certain features of the German system of workman's insurance are adversely criticised. The pamphlet is the work of Dr. Ferdinand Friedensburg, a retired member of the governing body of the Imperial Insurance Department of Germany.

The pamphlet is remarkable if for no other reason, because it is the one dissenting voice in the chorus of the sometimes extravagant praise of the German insurance system. Dr. Friedensburg was originally appointed on the Senate of the Insurance Office as representative of the ultra-conservative element who were opposed on principle to the social insurance schemes; and he has, it appears, throughout his tenure of office maintained an attitude of critical dubiousness. The whole tone of the pamphlet though it undoubtedly contains much that is cogent and valuable, is one of caustic sarcasm not indicative of an unbiased disposition. It is in places marked by exaggeration and distortion of facts, bordering upon disingenuousness and appears to carry much less weight in the country of its origin than has been attributed to it by foreign reviewers.

The criticisms are of course not confined to the accident compensation system but apply to the whole German system of social insurance against accident, sickness

[1] Praxis der deutschen Arbeiterversicherung (Berlin, 1911). Translation by Louis H. Gray, Workmen's Compensation and Information Bureau, New York.

and old age, with particular reference to the first two. Some of the criticisms referred to will therefore be found wholly or partially inapplicable to the accident compensation phase of the subject.

It is difficult to analyse Dr. Friedensburg's strictures into specific counts, but at the risk of imputing a definiteness which is wanting in the article itself, the following items may be extracted. It is said that the original object and intention of the system as expressed in the Imperial message establishing it, namely: to "Consolidate the economic forces of the nation by means of industrial association under state supervision" has not been realized in result.[1] On the contrary, it is intimated that the economic burdens imposed by the system tend to handicap German industry and commerce in its competition in the markets of the world.[2] The fear is expressed that in time of war or depression the burden of insurance may become ruinous.[3] The trade associations are said in some cases to be in a precarious financial footing not maintaining adequate reserves. The administration of the system is said to engage an unduly large official staff and to involve an undue amount of clerical labour. The system is said to encourage litigation and to involve an execessive number of appeals. The chief complaint is against the spirit in which the system has been administered, and this complaint sums up and includes most of the others. It is asserted that in the effort to popularize the system and to placate the working classes the legal or juristic conception originally intended to be embodied in the system has been lost sight of. Those in charge of the administration are said to have shown too great solicitude on behalf of the claimants of benefits. Judicial officers have combined the functions to judge and advocate and are influenced by benevolent and philanthropic sentiments rather than by principles of justice. Humanitarian appeals in individual cases weighed strongly against broader considerations of equity and economy. Individual encroachments are seized upon as precedents for general extension of pension rights; as a result, it is said that simulation, malingering, fraud and perjury have become so common as to demoralize the whole administration and the effect has been to pauperize the working population and to stifle thrift and enterprise.

In many particulars, the criticisms are inconsistent and self-contradictory, in other particulars they are manifestly untenable in the light of general knowledge. While it is deplored in one place that the benevolent attitude of the courts has made it almost impossible for a workman to fail in establishing his claim in another place figures are cited showing that of the total number of claims only 16.7 are granted on application, and of the applications for revision in unsuccessful cases only 10.5 per cent. succeed.[4] Again Dr. Friedensburg expresses alarm at the growth of paternalism and bureaucracy while at the same time advocating the complete assumption by the State of the whole administration of the insurance system and the collection of the insurance fund through the medium of the state fiscal machinery. He admits that it was the intention that the State should make provision (*staatliche Fürsorge*) for workers who, through sickness, industrial accident, invalidity or old age, have become incapacitated.[5] and that the system was freed from all legal formalities and red tape[6]: yet he inveighs bitterly against the departure from the "juristic" conception of the insurance of the insurance

[1] P. 9 (Gray, 24).
[2] P. 5 (Gray, 19).
[3] P. 6 (Gray, 20).
[4] P. 38 (Gray, 51).
[5] P. 1 (Gray, 15).
[6] P. 3 (Gray, 17).

system and the informality of proceedings by which claims are established. The argument that insurance systems have militated against the success of German industry and commerce is refuted by the consensus of opinion amongst expert authorities in Germany and in foreign countries. This opinion is well expressed by Dr. Kaufman, President of the Imperial Insurance Office. "The workers' lives preserved mean maintenance and increase of our national resources, and therefore give splendid returns for the heavy financial burdens which social insurance places upon economic structure. It is not an accident that the unprecedented expansion of German commerce and industry and the wonderful improvement in the economic welfare of the nation during the last twenty years has happened concurrently with thorough-going improvement in the condition of our workers. There is a close connection between the two events."[1]

The figures given by Dr. Friedensburg as to the number of officials engaged upon the system do not appear in the light of the population of Germany and the extent of the system to represent an excessively large administrative staff, and, it may be added, that with the exception of the more fully developed State's scheme suggested by Dr. Friedensburg himself, no other system of insurance would afford any superiority in this respect. Notwithstanding Dr. Friedensburg's criticisms insurance administration in Germany is admittedly the most efficient and economical known in the world.

As to the solvency of the trade associations it must be remembered that under the German, system it is not necessary to set up reserves, but is sufficient to collect each year only enough to pay the year's pensions with a small margin for an emergency fund. As a matter of fact, it has been strongly protested that the margin regularly added to the amount required for the year's outlay has been too large. The accumulated reserves had in 1909 reached the immense sum of $540,000,00.[2]

In their general character the criticisms are anything but constructive and little or no attempt is made to point out remedies or alternatives: but a few constructive suggestions are made, and these, in the light of the general tenor of the pamphlet are of a surprising character. The conclusion of the whole argument is given in the following remarkable passage. "The system of workmen's insurance cannot be fully beneficial until, freed from all exaggeration, and in particular from conscious or unconscious subservience to the lower elements, it operates as a state institution unpartisan. as any other department of the state."[3] In another portion of the pamphlet he suggests that "A tax might have been levied far more cheaply nor would it have required the huge army of officials the intricate mechanism of administration or the costly system of vouchers and the like."[4]

But while there is little constructive criticism the writer is at pains to disavow opposition to the essential principles of the German system. Thus he states that it is far from his intention to say anything in opposition to the German social insurance legislation or its development.[5] Again, he says: "This does not imply that the Trade Associations should be abolished. That would be the most serious

[1] Schwedtman and Emery, Accident Prevention and Relief, page 38, and see similar expressions, Rep. Fed. Com. U.S.

[2] Schwedtman and Emery, Accident Prevention and Relief, pp. 38, 41.

[3] P. 48 (Gray, 62). It is difficult to translate the force of the original: "Die Arbeiterversicherung kann nur dann segensreich wirken, wenn sie, losgellöst von allen übertriebungen, insbesondere von der bewuszten oder unbewuszten Liebedienerei nach unten, als eine Staatseinrichtung arbeitet, parteilos wie jede andere."

[4] P. 41 (Gray, 54).

[5] P. 6 (Gray, 20).

mistake that could be made for if anything has stood the test it has been the Trades Associations; and they are indispensable as constituting the most effective means of representation for that portion of the community which, notwithstanding the facility which their opponents display in manipulating their figures, bears by far the greatest portion of the cost of the insurance."[1] Even in the title of his pamphlet, Dr. Friedensburg guards himself by announcing his subject as the "praxis" as opposed to the theory or principles of the German system of insurance.[2] And this attitude is borne out in the discussion which is almost entirely a deprecation of the miscarriage of the original juristic conception which the law was intended to embody. The complaint is not against the law or the system but against the alleged compliant, class-serving and paternalistic spirit shown in its administration.

The chief and perhaps the only value of the article consists in its calling attention in an emphatic if hyberbolic manner to the dangers of allowing the administration of an insurance system to be controlled by short sighted humanitarian and charitable sentiments. This may be evinced not only in the benevolent allowance of claims not strictly justified, but also by charitably relieving the workmen from participation in the cost. For Dr. Friedensburg does not confine his criticisms to the official and the workman. "Insurance was intended as a right which the insured was to help secure by his own efforts; in this way he was to be won to a participation in the thought and activity of the nation; he was to learn not to rely upon the help of others but rather to work out his destiny by his own efforts. With deliberate and well-considered purpose, therefore, the original draft of the sickness insurance law made it the duty of the employer to deduct half of his contribution to the insurance fund from the wages of the workmen. But in this instance it was the Reichstag itself, which, unable to do enough in its benignity and its craving for popularity changed the obligation into a mere authorization which to a large extent, has remained a dead letter. Of course, the concept itself is not yet quite dead. Only recently, the Chamber of Commerce at Frankfort-on-the-Oder opposing a projected insurance law for private officials, has placed itself on record that: 'The assumption by the State of too large a responsibility in providing for its citizens involves the grave danger that individual responsibility, that powerful incentive to thrift and enterprise, may become gradually atrophied.'"[3] And of employers themselves the complaint is that "it has long since become the regular custom for masters—and their example has been followed by many other employers, especially in rural districts—to pay the full contributions towards the invalidity insurance of their insurance; and not to subtract the half as they may optionally do. Many indeed know of no other course; and many would even be ashamed to do it."[4]

Much more remarkable than the article itself is the attempt of the advocates of the system of individual employers' liability with voluntary insurance to use the pamphlet in support of their views, and as an exposé of the weakness of state insurance. The article is being quoted by representatives of the liability insurance interests in opposing the idea of state insurance. Used for this purpose the article is certainly a boomerang. In the first place, the German system of accident compensation is not a State insurance system, and in the second place, as has been pointed out, the strongest argument contained in the article is a

[1] P. 47 (Gray, 61).
[2] Dr. Gray has mistranslated this as "Practical Results."
[3] P. 41 (Gray, 54).
[4] P. 40 (Gray, 54).

plea for state insurance. Moreover, Dr. Friedensburg is most emphatic in disclaiming dissent from the underlying principles of the German system. He intimates that he would be a "blind fool" who would "fail to recognize that the blessings of the insurance system cannot be fully described even by the use of the customary expressions of unqualified laudation."[1]

The following letter by Dr. Zacher, the recognized authority on the German insurance system, is quoted from the brief presented to the Federal Commission on Workmen's Compensation by Mr. Ferdinand C. Schweidtman, on behalf of the National Association of Manufacturers of the United States, and probably represents with fair accuracy the views of those best in a position to estimate the force of Dr. Friedensburg's criticism:

BERLIN, April 19th, 1911.

My dear Mr. Schwedtman,

In reply to your favours of March 31st, and April 7th, I beg to send you herewith the desired particulars of Dr. Friedensburg. His statement must not be taken too serious. Dr. Friedensburg has been generally known even during his active connection with the Imperial Insurance Department as the solitary advocate of extreme tendencies. His present articles show an unwarranted tendency to condemn a great national, social insurance system on account of a few shortcomings in some of its details. That any system, covering by compulsion nearly all of the working population of a nation, has some fault, especially at the beginning, is natural, and I have long ago called attention to them in my works on social insurance but have at the same time pointed out their remedies.

While I have the highest regard for the sense of justice and fairness of Dr. Friedensburg, who for many years was my associate in office; I know that there is no foundation for his accusation on the part of the German Imperial Department in favour of the wage workers. The labour press has in recent years with equal lack of reason accused this department of the opposite tendency—that is, of injustice to the wage-worker.

Surely there can be no reasonable talk of a deficit actuarial or otherwise, or of financial difficulties in our insurance system, in view of an accumulated reserve fund of $500,000,000, especially if our insurance laws continue to be carried out properly, and every abuse continues to be promptly and effectually met. I am of the opinion that a compulsory national insurance system does not require the complicated method of figuring in advance exact final costs which of course must be part of a voluntary insurance system, but remains always a factor of uncertainty.

Men sufficiently familiar with this subject to judge are unanimous in pronouncing the underlying principles of the German insurance system thoroughly sound, and in declaring the system a wonderful factor in establishing for the whole nation a higher level in culture and industrial efficiency. Practically every one agrees that the shortcomings of our insurance system are extremely small in comparison with its wonderful advantages and especially in the compulsory feature responsible for a growing spirit of thrift and economy which is full of importance and promise for the future of the nation.

Wishing the National Association of Manufacturers a successful annual convention, I remain,

Sincerely yours, DR. ZACHER.
Director German Imperial Statistical Department.

[1] P. 46 (Gray, 60).

MINUTES OF EVIDENCE

First to the Eleventh Sitting,

OCTOBER 23, 1911 TO JANUARY 24, 1912.

MINUTES OF EVIDENCE

Taken before the Commissioner

THE HON. SIR WILLIAM RALPH MEREDITH, C.J.,C.P.

ON

Workmen's Compensation

FIRST SITTING

LEGISLATIVE BUILDING, TORONTO.

Monday, 23rd October, 1911, 11 *a.m.*

PRESENT: SIR WILLIAM R. MEREDITH, *Commissioner.*
MR. F. N. KENNIN, *Secretary.*
MR. W. B. WILKINSON, *Law Clerk.*

The Secretary read the Commission appointing Sir William Ralph Meredith, C.J..C.P., Commissioner.

THE COMMISSIONER: Since the issue of this Commission efforts have been made to get together as much material as possible bearing upon the subject of the inquiry, and the Secretary has gathered a very large amount of what may turn out to be valuable information upon the subject. That information will be here, and will be available to anybody who may wish to examine it or to make any use of it. It will not be praticable to take it away unless there are duplicate copies, but any of it may be examined at any time by any person interested. It was intended that the public sittings of the Commission should take place earlier, but owing to circumstances to which it is not necessary to refer more particularly, it was thought inexpedient to hold a sitting of the Commission until the present time. Although this sitting of the Commission is preliminary. I will be glad to hear to-day what anyone has to say, and as for any and all other persons who may wish to speak upon the subject of the inquiry, arrangements may be made at convenient times.

If there is anyone present who wishes to be heard he may speak now.

MR. E. C. HUNT: Last year I lost my right arm in a sawmill in Cookstown, and I received no compensation whatever for my loss. My wages stopped as soon as my arm was cut off. and I had to make what provision I could to enable me to get better. Since getting better and getting an artificial arm I have had great trouble in getting employment of any description. It is very hard for a man with one arm to get a job when very often there is an over plus on the market of men with two arms.

THE COMMISSIONER: Was any effort made to obtain compensation?

MR. HUNT: I asked the man and he said he wasn't worth very much. I saw a lawyer about the case and he claimed he didn't think it was worth my while to sue, for the man wasn't worth very much that I was working for, and he didn't see that there was any defect in the machinery, and he thought in the long run I should be the loser if I took action. He said the best thing to do was to let it go, and that is all I got, and I have just had to struggle along as best I could with the one arm. I think some compensation should be made either of a grant of land or a pension such as is in effect in Australia or in some of the States or in the British Isles. If this had occurred in the British Isles I should have got enough to live on for the remainder of my life on account of the injury. I think a man that gets hurt in the industrial army should be compensated in some way similarly to a man that is injured in warfare. I think that is all I have to say.

MR. A. C. MACDONELL, K.C.: Permit me to say a word or two. I was not aware of what the inquiry would be, but I am glad to have an opportunity to say just a few words on the subject. It seems to me as the law is at present on our statute books, and as administered, certainly in the opinion of many, it is entirely inadequate and out of date with our present civilization. The condition is such that it has become more than an abuse, in my opinion, because of the presence of what are called liability insurance companies. In the first place when a man meets with an accident now he has the general law, the Workmen's Compensation for Injuries Act, which has been productive of perhaps more litigation, as your Lordship is aware, than any other act on the statute book. The result has been that almost numberless cases have gone from court to court on practically every section of that act. It has not proved to be a remedial act in so far as the public are concerned. It is not a measure out of which the public has had any very great advantage. In the second place the presence of these insurance companies makes it practically impossible for a man to recover damages for an accident. Now, when I say practically impossible I mean that in its fullest sense. In the first place all employers are insured, generally speaking, by these companies, and they are perfectly indifferent as to what becomes of the accident after it happens. The insurance company takes over all responsibility for it and all litigation in connection with it. The result is that as soon as a man is injured an agent of the company practically follows him in the ambulance, either to his home or to the hospital, and obtains from him fairly or unfairly—very often unfairly—some kind of a release; he gets the company released, or makes some settlement. Very often these settlements are unfairly obtained, and nearly always inprovident. They are obtained at a time when the injured person is not in a condition to look after his own affairs and when he is easily taken advantage of. The result is that litigation ensues, and these settlements are very often set aside, and very often stand; but in any case no matter what the accident may be the company defends it. They make it a practice to defend everything, and the result is, even if a man is honestly entitled to compensation, or his family is entitled to compensation, litigation, generally prolonged, ensues and the man gets nothing. In many of these cases a legal gentleman is attached to the staff of these insurance companies, and they carry on litigation practically at no expense except the expense of an annual salary of a small nature to the lawyer who is attached to the staff, and justice is impeded in this way. Appeals are taken from court to court, and almost on every motion, and even during the pendency of litigation again the agent of the company is active. Even months after matters have been placed in solicitors' hands we find the agents going to the house of the man who has been injured, seeing himself or his wife, and

obtaining settlements that are improvident, and done behind the back of the legal adviser of the unfortunate person.

I think public opinion generally is satisfied that this litigation is not in accordance with our present civilization, and that some change should take place. What that change shall be is of course a matter of opinion. We find magazine articles almost without number upon the legislation in the different countries, and upon what legislation probably will take place in the future in these different countries. Personally I think the present British Compensation for Workmen's Act of 1906 is about as reasonable and as fair a measure as could be adopted. We could have, if we adopted that, the advantage of the British system of legislation, and the British system of the interpretation of the act, because although the act is pretty definite in its terms still, as you are aware, a large number of cases have already been tried and taken from court to court regarding the different features of that act, and working of it out.

I have made a short summary of the salient features of the act, the outstanding features, or as it were the bones of the act, and they are shortly these:

The Workmen's Compensation Act of 1906 is an act to consolidate and amend the law with respect to compensation to workmen for injuries suffered in the course of their employment. The act provides generally for the liability of employers to workmen for injuries, and introduces a new principle into the English law, namely, that one man may be made responsible to another for injuries, whether or not there has been any negligence on his part. Broadly speaking the effect of this act is that every workman shall be entitled to recover compensation from his master if he is injured by an accident whilst employed in his service, and this is quite apart from whether such accident was occasioned by the master's negligence or not. The injury must have been occasioned by an accident while in his employment, but it is a matter of indifference whether it was occasioned by the master's negligence or not. The act may be divided under three principal headings: The act itself mainly deals with the question of the liability for compensation; the First Schedule deals with how the compensation is to be assessed and disposed of; and the Second Schedule deals with the procedure to be adopted. This procedure is new. Along with the introduction of the new principle of liability the act has introduced a new practice entirely, that of arbitration. I would briefly indicate the chief points to be observed by the inspectors and the workmen in ascertaining and determining such liability. To establish a right to compensation, whatever the amount, the applicant must prove: (1) that he was in an employment to which the act applies. In England that has been very broadly extended to include seamen, and so forth; (2) that he was injured by an accident; (3) that the accident arose out of and in the course of his employment; (4) that he was a workman within the scope of the act; (5) that he was entitled to some earnings. I think those who earn over £250 a year are not included in the benefits of the act, that is the equivalent of $1,000; (6) that he was incapacitated by such accident for at least one week; (7) that so soon as possible he gave notice of such accident; (8) that within six months he made a claim in respect thereof; (9) that for such accident the respondents (they are called respondents there instead of defendants) are persons liable within the act. In addition to controverting the evidence of the applicant on any of the foregoing points, as a matter of defence the respondents, provided they have given the proper notice, may also say: (1) that the accident was occasioned by the serious and wilful misconduct of their workman and that it has not resulted in death or serious and permanent disablement; (2) as regards industrial

duties that the workman had at the time of entering his employment wilfully and fraudulenty misrepresented himself in writing as not having previously suffered from disease; (3) that they have admitted the claim and there is no subject matter for arbitration; (4) that the applicant has contracted out of the act, that is in certain cases where benefit societies or funds are provided in lieu of the compensation named in the act; (5) that the applicant has refused to submit himself to medical examination. Further the respondents may say, although not as against the applicant, that through liability to the applicant they are entitled to be indemnified by some other person.

These are, as I have said, the salient features of the act and present the general effect of it. In England, as your Lordship is aware, this act has been commented upon most favourably. The result, I think, has been that in England and in other places where similar legislation exists at the present time, that the employers would on no account part with the act, or have it annulled or wiped out. It has been found that the act is beneficial both to the employer and employee. It rids the employer of the harassing feature of law suits and litigation, and the amount that the employer has to pay for damages is assessed by arbitration on a scale provided for by the rules stipulated by the act. Provision is made now by all employers for the annual payment of certain amounts into a fund, with the result that at the present time the employer in England adds to his charge of manufacture and to the general charge of his mill, or whatever place he is operating, a certain annual sum to be set aside to form a fund out of which to meet claims for compensation. This fund is carried forward the same as any other fixed or permanent charge on his business, the same as his fire insurance, or any other charge, and it is included in the cost of manufacture. It goes into his fixed charges as part of his business. It is provided for and paid off out of the business and he feels no sudden call upon him for moneys to meet claims of this kind, because he has already provided for it in the way I have said. He does not really feel the annual payments any more than he feels his taxes or fire insurance, or any other fixed charge on his business, and so it is that the act has been found beneficial to both employer and employee. It rids the employer of contentions and constant litigation, and it gives the employee a chance, without expense, to go before a tribunal where he can make his claim in a plain simple way without invoking the machinery of the courts, and without being obliged to give up half of what he may recover for law costs even if he does recover. Nowadays, as I have said, it is quite impossible, owing to the intervention of the insurance companies, for a workman to get what he is entitled to, or not until he has been dragged from court to court, and what he gets is largely dissipated in law costs.

MR. STEWART: That refers to this country?

MR. MACDONELL: Yes. The manufacturer over there now includes in his cost of manufacture a certain annual sum that he has to pay into this fund which goes annually to make up a sum sufficient to meet the demands of the workmen, and he does not feel it any more than he does any fixed charges or overhead charges, as it is called, in his business, and public opinion, as far as it has been expressed in the press and in magazine articles, and so forth, is that it has been found as advantageous to the employer as to the employee.

THE COMMISSIONER: How do you find the act operates upon small employers of labour, say a man employing five or ten men? The act as introduced has exempted that class of manufacture from the operation of the act, but in the House that exemption was stricken out. Have you looked at that aspect of it, Mr. Macdonell?

Mr. Macdonell: I have not observed any criticism of it. From the standpoint of the small employer there may be some objections. I have seen a great many articles in periodicals and in the press, but I have not observed any criticism.

Mr. D. L. McCarthy, K.C.: How does the British Act apply to a case like Mr. Hunt's?

Mr. Macdonell: That is liable to happen anywhere. The law cannot guarantee solvency on anybody's part.

The Commissioner: Have you seen the law of the State of Washington, which is practically State insurance at the expense of the manufacturer?

Mr. Macdonell: I think that is the German system too.

The Commissioner: But this is entirely at the expense of the employer. That was passed this year.

Mr. Macdonell: I have not seen that. The German system is based on a contribution.

The Commissioner: There are certain percentages of the total wage bill which fix the contribution by the employer to the funds. There is no risk such as Mr. McCarthy has suggested in the case of Mr. Hunt. There the fund would meet the case.

Mr. Macdonell: That contribution system is in many acts, but that is the first act, I think, in which it is entirely at the expense of the State.

Mr. Stewart: May I ask Mr. Macdonell, since he has mentioned the dangers of insurance, do not the English manufacturers insure on the same basis against accident?

Mr. Macdonell: Well, they don't really need to now. I don't know whether they do or not. Since 1906 the Employers' Liability Act guarantees to a man injured by an accident certain compensation.

Mr. Stewart: Is there anything in the British Act which prevents an employer from insuring his men so that if an accident does happen he takes no risk whatever, but just like a fire insurance company, they take all the risk.

Mr. Macdonell: I presume they do that.

Mr. Stewart: Is it not a fact in England that through the operation of the insurance companies that the employers have to differentiate between the men they employ, and that men who are above the age of 33 and become a little disabled are not employed, simply for the reason that the insurance company will not insure them and take the risk: and therefore it throws the older and weaker workmen into the slough of despond, into the scrap heap? Is that not one of the effects of the working of the act in England?

Mr. Macdonell: That would follow I think very largely.

Mr. Stewart: Wouldn't it be a benefit to a few of the workers at the expense of the rest?

Mr. Macdonell: That is if you introduce the insurance part of it. There is no necessity for that. The employer is made liable by the British Act, and therefore it is a matter of indifference as far as the workman is concerned.

Mr. Stewart: You do not state that the employers do not insure, because as a matter of fact they do insure in England.

Mr. Macdonell: I suppose they can, but that does not affect the law. The law makes the employer liable for an accident as I have said under the British Act.

Mr. Stewart: It affects the greater portion of the workers though.

Mr. Macdonell: I do not know how that would work out. I am just discussing the legal end of it.

THE COMMISSIONER: The point that Mr. Stewart has mentioned has been prominently brought forward in the discussion on these acts, and it was pointed out that the result is as he points out, although the age is put a good deal higher than he mentioned. It is said that employers will not take into their service men over fifty as they are more liable to meet with accidents and it is perhaps more difficult to insure them. That is an inherent difficulty, if it is a difficulty at all, in the system.

MR. MACDONELL: There could be legislation that would remove that evil, perhaps.

THE COMMISSIONER: You have no suggestion to make yourself, Mr. Stewart?

MR. STEWART: Well, as far as I am concerned I simply say, not having the mental training of a lawyer, that these acts kind of confuse me, but from the workings of the British Act I think it is no benefit at all to the working class, as far as the whole working class is concerned. It is simply the few who get compensated. It simply shifts the burden from a few of the working class, but for the majority the load is heavier, for the reasons I have put forward: in the first place that the employer has certain risks to take. Naturally in his business he has the risk of fire, and he has the risk of other things which he insures against. It is the same with the workmen's compensation. A man is injured and someone has got to pay, so he simply insures the whole staff. Now, the insurance companies are not in business for pleasure: they are in business for a profit; and the old man, a man who from working perhaps in a white lead industry has had his nerves shattered, men who are prematurely old from the nature of their work,—are the insurance companies going to insure him when there are others willing to sell themselves cheaper? Certainly not. The insurance company won't take the risk. The employer also is in business for profit, and naturally the older men are put on the shelf. It is only one in a thousand that gets compensation. A few of the workers are benefited by the British Act, but the majority are not. It is an act for the workers, but it doesn't redound to the benefit of the whole of the workers. It benefits a few at the expense of the others.

THE COMMISSIONER: What is your occupation, Mr. Stewart?

MR. STEWART: I have no occupation regularly. I have to do what I can, but I have been in the baking trade. I have learned the baking trade.

MR. F. W. WEGENAST: I am representing the Canadian Manufacturers' Association. I presume it will not be expected at this preliminary meeting to go into any detail of the merits in this discussion, although I am very much interested in certain of the points raised. Incidentally I might just remark that there can be no exception taken in my estimation to either the view of Mr. Macdonell, or the view of the last speaker Mr. Stewart, so far as they go. The fact of the matter is, I suppose, that under the British system there is insurance, but it is as has been indicated an employer's liability insurance, and the insurance company simply takes up the burden of defending the action, such as it may be, and it sees to it that its risks are no heavier than it can possibly help, and one of the incidents of that system, of course, is that the older and more decrepit men of necessity are gradually pushed to the wall. On behalf of the Association which I represent, I would like to present the resolution which was adopted at the annual meeting some weeks ago, and to say in connection with that resolution that while we are offering to the Commissioner the co-operation of the Association in his investigation, we do so in no perfunctory way. The manufacturers of this Province, and indeed the whole Dominion, are seized with the importance of this subject, and if I may anticipate the attitude that will probably be taken by the manufacturers and probably

by the employee interests in this country, I would say that probably very little exception will be taken to the proposition of Mr. Macdonell, that compensation in some form should be provided. The discussion, if I may anticipate again, so far as the manufacturing interests are concerned at all events, will be confined probably to the means by which that compensation should be effected. Realizing as I do that the question of what is the best means is a matter of great perplexity, and that in determining for the guidance of the legislators in this Province what should be the proper principles to work upon, we have the advantage of the experience of other countries for the last thirty or forty years. The resolution which I may perhaps read is as follows: "Resolved that the conservation of industrial efficiency by organized and systematic means for the protection of the life and health of wage workers, and compensation for the results of industrial accidents is a matter which demands the careful attention of this Association.

"That in view of the imminence of legislation upon the subject in some of the provinces, this Association ought to undertake a thorough investigation of the whole subject of accident prevention and relief, with a view to formulating a broad general policy for future activities.

"That recognizing the futility of repeating the experiments of other countries and the possibility of profiting by the failure and success of legislation of other jurisdictions, we urge upon those in authority that, without permitting any undue or unreasonable delay, any future legislation should be undertaken only after the most thorough investigation of the whole subject from all standpoints.

"That a committee be appointed to investigate the subject on behalf of this Association, and that this committee be authorized, under the direction of the Executive Council, to take such steps as may be deemed advisable to present the views of the Association as occasion may arise during the coming year to any legislative or other bodies dealing with the question."

I do not know that I can say anything further at this stage, your Lordship, except to repeat that we are anxious to co-operate in every possible way with your Lordship in reaching a settlement or solution of the problem, and we shall be glad to have your Lordship's direction, or have your Lordship indicate in some way as to the best method that we can follow to assist.

THE COMMISSIONER: Do I understand that there was any scheme formulated by the Association?

MR. WEGENAST: No, your Lordship.

THE COMMISSIONER: Have you seen your way yet to grapple with the difficulty that Mr. Stewart points out, and which you seem to think is a defect in the act? Has that aspect been considered, and is it practicable to deal with it in a Workmen's Compensation Act?

MR. WEGENAST: Off hand I would say yes. Of course it will be realized in speaking for an Association like the Canadian Manufacturers' Association that it is very difficult to speak generally. We represent in our membership in this Province alone 1,800 manufacturing concerns—practically the whole of the manufacturing interests of the Province. One qualification for membership in our Association is that a man or concern shall employ at least five persons in actual work in some branch of manufacture in Canada, and of those qualified for membership we embrace 90 per cent., according to the number of men employed and the amount of capital invested. Numerically it is slightly less, but that expresses in a general way the scope of our Association. Now, it is no small task to formulate the opinion and the views of an Association of 1,800 manufacturing concerns and corporations, and whatever I shall say to this Commission will always be qualified by that difficulty.

Off hand I would say that I have reason to anticipate that some scheme may be worked out which will be satisfactory to the Manufacturers' Association. In doing so I may also say that the only thing which would prevent a satisfactory working out of such a scheme will be an undue attitude of criticism on the part of those who will have the most to gain by any legislation that is adopted. I think it need not be disguised that in some branches of legislation the Manufacturers' Association and the Employers' Association do come into conflict with the interests of the labour organization, and while that is the case, and while there is owing to that a certain amount of what might be called suspicion, there is no reason to my mind why in this subject of all subjects the elements in which a possible conflict of interest might arise should not be reduced to a minimum. In the larger aspects of the subject the employing and employee interests are concurrent. It is only in the working out of the smaller details that we will probably disagree. Again with the risk that one takes in anticipating, I may say that so far as I can see any contributions which the Manufacturers' Association will give to this discussion will be along the line of the working out of the details in such a way as to make whatever system is adopted such a system as will be conducive to the best interests of both parties immediately concerned.

THE COMMISSIONER: I would like to ask you, Mr. Wegenast, could there be got together a number of manufacturers who have associations like the Massey-Harris Company is said to have for the benefit of their employees, which they say has resulted in no actions having been brought against the company? I see that spoken of in the papers that the Secretary has collected.

MR. WEGENAST: We expect to have one of the managers of the Massey-Harris Company on the committee. It may interest you if I give the personnel of the committee which has been appointed to co-operate with or assist this commission in the working out of some act. The members are, Mr. J. R. Shaw, of Woodstock, W. K. McNaught, A. W. Kemp, P. W. Ellis, E. J. Davis, R. S. Gourley, John Firstbrook, A. Fleming, W. B. Tindall, T. A. Russell, Geo. W. Watts, Alex. Saunders, S. J. Williams, R. O. McCullough, J. P. Murray, S. Harris, H. Murray, John Baillie, C. B. Gordon, of Montreal, F. R. Deacon, A. E. McKinstry, H. Cockshutt, C. R. McCullough, W. M. Gartshore and Thomas Findlay. Amongst these we have endeavored to secure representatives of such types of compensation systems as there are now under the present act, and we anticipate adding to this committee a number of others.

THE COMMISSIONER: Would it be practicable and convenient to get together the different schemes that there are, with the names of the manufacturers that have established them?

MR. WEGENAST: That would be rather difficult for this reason, that most of these schemes are in the first place unscientific, and they are not supported by anything in the shape of written rules. They rest largely upon custom.

THE COMMISSIONER: One feature of the British Act, and a feature of some other acts is that schemes that are approved by some official authority may take the place of the benefits of the act.

MR. WEGENAST: With regard to that I might say that to me personally the greatest defect in the British Act is the want of machinery to set that provision into operation. That provision is contained in seven of the provincial acts, the seven provinces that have adopted the British Act in Canada, or six rather, and they have vested the power to approve of these schemes in the Attorney-General. Now, I can quite conceive that the Attorney-General would have other duties which would crowd out any possibility of his dealing with a matter of that kind, and as a

matter of fact I have yet to hear of a single scheme being presented to the Attorney-General of any of the provinces for his approval. The experience under the British Act is that the benefit schemes which are countenanced by the act languish and die, and they are actually being reduced in number, instead of increasing. Speaking personally that is I think the greatest defect in the British Act.

THE COMMISSIONER: What does that mean? To allow that method of contracting out of the act?

MR. WEGENAST: It is not so much a matter of contracting.

THE COMMISSIONER: A man takes the benefit of that approved scheme in lieu of what the act gives him.

MR. WEGENAST: Well, that is one way of putting it. The difference is this, that whereas under the British Act without adopting any schemes an employer bears the whole burden of the risk of injury on the part of his employees. I am not speaking of the question of contribution, but the question of liability. Whereas the employer bears the whole liability under any scheme that is adopted, the liability is diffused or spread over a wider area.

THE COMMISSIONER: What does that mean?

MR. WEGENAST: That means in the first place there is a greater guarantee of solvency.

THE COMMISSIONER: You don't mean a different body assisting in bearing the burden?

MR. WEGENAST: No, I was thinking of the mutual principle, although the stock insurance principle might be invoked.

THE COMMISSIONER: What is in my mind, you are not suggesting under these schemes that the workman contributes to the indemnity fund or the insurance fund?

MR. WEGENAST: No, I wasn't suggesting that at this point. I think that is a matter of minor detail, the question of contribution—perhaps not of minor detail, but a question of detail.

THE COMMISSIONER: Have you seen this Washington Statute?

MR. WEGENAST: No. I haven't seen that, although I was in touch with the proceedings leading up to the passing of the act. I have not seen it in its completed form.

MR. MEREDITH: I would like to ask if this will affect the railroad men at all?

THE COMMISSIONER: That will depend on what the result reached is. I suppose this covers all branches of industry.

MR. MEREDITH: I didn't know whether it would affect the railroad man or not, or whether it would have to be a Dominion Act.

THE COMMISSIONER: No, it is within the competency of the provincial legislature.

MR. MEREDITH: Because we have really more accidents in our brotherhood than any other.

THE COMMISSIONER: What branch do you represent?

MR. MEREDITH: The Brotherhood of Railroad Trainmen, Switchmen and Conductors. I represent the railroad men of Ontario. I just came here to watch as I thought probably we would have nothing to do with this act at all, being a provincial act.

THE COMMISSIONER: Oh yes, you are interested.

MR. FRED BANCROFT: I would like to ask Mr. Wegenast a question, if it is not true that the provinces of this country can have their Workmen's Compensation Act modelled upon the British Act, and that where the power is vested in the

Attorney-General there is a provision also in that act, that where the employer has a beneficial scheme of his own he shall include all the benefits of that Compensation Act, and give also additional benefit to the employee in the ratio to the contribution that the workman gives to the scheme of the employer.

MR. WEGENAST: I don't think that provision is included in all the provincial acts. That is one of the difficulties, of course, of the British Act. The British Act says in so many words that any scheme the employer adopts must be at least as beneficial to the workmen as the benefits under the act, and the interpretation that has been put upon that provision renders it entirely prejudicial to the employer to enter into any scheme.

MR. BANCROFT: I have here the Manitoba Act. It is modelled upon the British Act also. "If the Attorney-General after taking steps to ascertain the views of the employer and the workmen certifies that any scheme of compensation, benefit, or insurance, for the workmen of an employer in any employment, whether or not such scheme includes other employers and their workmen, provides scales of compensation not less favorable to the workmen and their dependants than the corresponding scales in this act, and that where the scheme provides for contributions by the workmen and the scheme confers benefits at least equivalent to those contributions in addition to the benefits to which the workman would have been entitled under this act."

MR. WEGENAST: A verdict of $5,000 or $10,000 always looms up so largely as benefit that no scheme would probably be found approved in the eyes of the workmen who would doubtless be represented in any petition to the Attorney-General for the approval of such a scheme. This looms so large that it is found practically impossible to set that provision in operation. That is really why that provision is not made.

MR. BANCROFT: The benefit features of employers gradually die out under modern compensation.

MR. WEGENAST: That is supported, I think, by the statistics.

MR. BANCROFT: Your Lordship, I think it is only fair that we should say something on this matter as well as the Manufacturers' Association. Myself and two colleagues are here this morning representing the Central Labour Council. I think in the future we will have a representation before you either privately or publicly, whichever way you decide, from the Dominion Trades Congress, which represents about 150,000 members in this country, an Association of which I have the honour to be Vice-President. We likewise will endeavour in every way possible to assist you to draw up a Workmen's Compensation Act that shall have, at least we hope, the favourable support of the workmen of this country, though I cannot say with any degree of confidence that what Mr. Wegenast has mentioned as a minor detail, that of who shall provide the compensation or how it shall be provided, will be a minor detail as far as we are concerned in the future. I think there is a difference of opinion there. But anyway this morning's meeting is a public session and we can speak of that later. I might say it was the Dominion Trades Congress who first asked for this Commission. We asked the Cabinet of this Ontario Government, and they appointed a Commission, and we undoubtedly must do all in our power to show you what kind of Workmen's Compensation Act we want. However, I have hardly heard of any scheme this morning proposed for future legislation. I do not know whether there is something waiting, or whether it is necessary to have private sessions or not, but I will say this, that as far as organized labour is concerned, of which we are the representatives, they certainly do consider that a Workmen's Compensation Act of the nature of the British Act is in the interests of the

workmen of this country or any other country, notwithstanding any statements that may be made to the contrary. I would also like to point out to you, sir, while no mention has been made in the line of a scheme, I will be a little more frank. A considerable number of opinions has been brought forward at different times as to the contribution to Workmen's Compensation Act, and largely these schemes have been based on the schemes of other countries. There is no contribution in Great Britain. There is no contribution in the Workmen's Compensation Acts of this country. The burden is on the employer. It is said there is contribution in Germany, which is not true. The German system of insurance has three principal features. One is compensation; another is insurance against sickness; and the third one is insurance against invalidity and old age. They are so interwoven together that it is almost impossible to decipher as to which is which, unless you go into detail, but the burden of compensation for accidents in Germany rests upon the employer. The insurance against sickness is about two thirds by the employees in an industry, but two thirds of the representatives on the administering Boards of the sick funds of Germany are working men. They control the Sick Boards. It is largely the same in invalidity and old age.

I should just like to quote a little, to be frank about it, from the Parliamentary Committee of the Trade Union movement of Great Britain, (of which I believe there are some forty or fifty members in the House), the Commissioner of which was Ramsay Macdonald, whose name is not unknown in this country, and some other men of international reputation, and probably some of the clearest thinkers in the world to-day,—they went as a Commission to Germany, and they reported on insurance against accident, and the insurance against accident replaced the old law of employers' liability. The old law of Employers' Liability I think is on the desk this morning. I think it is largely the Ontario Act. It is a very old one, and I think it is a copy, if my memory serves me, of the old English liability law which has been dead and gone for some years. The insurance against accident replaces the old law of Employers' Liability to-day.

The personal liability of the employer is changed into a collective charge upon the entire trade and the individual establishment is charged according to the measure of their risk and the amount they have paid. I think Mr. Wegenast himself, as well as others of the manufacturers, understands clearly the trade associations of the employers in Germany have the administration of the compensation for accidents, but there is this difference, that while the burden is on the employer in Germany the compensation for accidents does not start until after fourteen weeks, during which fourteen weeks the insurance against sickness has been in operation. For instance, if a man gets hurt in Germany and was taken home he would be put into the insurance against sickness for thirteen weeks. During that time he would have half his wages paid, medical treatment, nursing, and so on. At the fourteenth week the Workmen's Compensation comes into operation. This compensation is furnished by the employers through the trade associations. They take care of the man afterwards and they pay him as high as 66 2-3 per cent. of his total income while he is so incapacitated. That is in Germany. So that it would be impossible and unfair to attempt to introduce into this province or any other province, a law which had contributions from employees to a fund which would be parallel to insurance against sickness in Germany. In Great Britain the burden is on the industry,—that is the people who get injured in the industry. It is the same in Germany.

You mentioned the State of Washington. Here are recommendations for a Workmen's Compensation Act for New York State. This report is one signed by

eight of the most prominent labour men in New York, and six of the most prominent men in political work in New York, the labour men representing three hundred thousand men, and the others representing over thirty-eight thousand. This is what they say:

"Burden of Payment." Persons to be compensated: They do not draw up a long act, but they say all employees whose wages are less than $2,500 a year.

"Burden of Payment" is:

(*a*) The entire cost of compensation to rest upon employer.

(*b*) In case of occupational disease the cost of compensation to rest upon the last employer.

(*c*) The sub-contractor, contractor, and principal to be jointly and severally liable for compensation.

"Injuries to be compensated." Injuries by accident arising out of and in the course of employment:

(*a*) Disability or other injuries from diseases incident to particular occupations to count as injuries by accident.

(*b*) The State Department of Health to declare to be an occupational disease any disease as the result of the conditions of a specified occupation.

(*c*) The State Department of Health to investigate any alleged occupational disease when so petitioned by any county or municipal medical officer or on its own motion.

It is clear they are assessed. There is no difficulty about it.

Now, there is one thing I think undoubtedly that should be left out of the Workmen's Compensation Act, and that is any such thing as contributory negligence on the part of the employee. Modern thought has done away with it. In Germany and Great Britain where compensation has been discussed, the old argument that a workman will injure himself for the purpose of getting a generous compensation has died out altogether. It has died out by its own uselessness. No man gets hurt to-day because he wants to get a little money; and further (and I think this will be a very great help to you) wherever there has been a generous Workmen's Compensation Act with the burden upon the employer. it has almost been unnecessary for the factory inspectors or anybody else to see the machinery, because the employer has seen to it himself that the machinery has been so protected, for he sees it is far cheaper for him to protect the machinery than it is to pay the compensation.

Now, that is only a little glance of what we mean by compensation. I think in the future we may be able to give to you very clearly what is our idea. I don't know whether it will be in the form of an act itself, but we will make suggestions. I have been a little more frank this morning than the manufacturers, but there is the way we feel about it. We think that contributory negligence has no place in the Workmen's Compensation Act to-day, and that will find no favour with the workmen. The burden, as far as the workers see it, should rest upon the industry, and the compensation should start from the day the worker is injured. These are three fundamental principles of a future Workmen's Compensation Act. As I say we have been a little more frank, and we will be more frank in the future. I wish I could be as optimistic as Mr. Wegenast when he says the whole thing could be reduced to a minimum. If I thought for a moment that he had so accepted our views that the thing would be reduced to a minimum, we would be very happy about the Workmen's Compensation Act. Our views will be stated to you later.

MR. MILLER: Your Lordship, I would like to say a few words here as a correction of something which was said in connection with the Employers' Liability Act

of Great Britain, and more particularly in connection with the insurance companies. When the old act was first amended in 1896 the tariff, generally speaking, of the insurance companies, who up to that time had no data on which to go as to the tariff they were to charge to the employers, was 25 shillings per annum per £100 of wages paid to the workman. That in 1906 or 1907, when I left Britain for Canada, had been reduced, and the act had been amended twice. The third amendment was just coming into operation in 1907 or 1908. The tariff of the insurance companies to the employers had been reduced to 10 shillings or half a sovereign per £100 of wages paid to the workman per annum. That is practically one half per cent. of the wages paid yearly. I do not think that any employer can claim that that is an unbearable burden to put upon the industry which he is organizing or the factory working under him. I think also that there should be no limit as to the number of men employed by any manufacturer or employer. If he employs one man in any occupation whereby he is likely to be injured he should come under the compensation law, and there should be no contributory negligence on the part of other workmen employed, and the compensation should be from the date of the accident. In the first amended act of Britain there were two weeks, I think it was, wherein he could not claim compensation. That was because those who drew up the act in the first place in trying to safeguard the interests of the employers who bore the burden, the second point was overlooked. The second point was missed in looking after that too keenly, and that was so that malingerers or employees, who might by getting a small accident where it would only be necessary to lay off a day or a couple of days, that they would have to lay off the two weeks before they could get anything. In the last amendment it has been amended so that if the injury incapacitates the workman for longer than two weeks the compensation dates from the date of the accident. In the Manitoba Act I believe that that clause is incorporated, but it also emphasizes the fact further on whereby they do not get any compensation during that two weeks. I am not quite sure, because I have only had a glance at it, but I believe that is so. I claim any compensation act that we bring in the Province of Ontario should be as short and concise as possible. There should be no long clauses or a great number of clauses to it. It is not necessary. Also, there should be no limitation, only in the compensation. In Britain, although I am not clear because I hadn't a copy of the act, but I believe that when an accident is fatal—all accidents are based on the average per week of the twelve months previous to the accident, if he has been in that employment that length of time. If he has been a shorter time than twelve months it is taken on the length of time of service in that firm, and the average of his wages is given to him—that is 50 per cent. Here the same thing should apply. Instead of what has been mentioned where employers may be up against a law suit of $10.000 or $12,000 or $15,000 it should be clearly stated that in the case of a fatality that the remuneration should be based on the earnings of the injured for a certain number of years. I think the British act puts it as three years. I am not clear because I am speaking entirely from memory, but I believe it is three years. It is a limited salary of course. The law only takes consideration of workmen who are earning within a certain limit. I think it is £2 or £3. That certainly ought to be closely looked into in the forming of any act for the Province of Ontario. There are lots of data to go on from other countries and from the States, that should make our work here very much less troublesome, and we should be able to formulate some law whereby we

would eliminate the necessity or the opportunity for litigation in connection with compensation.

With regard to the insurance companies in Britain, taking the case of our friend who has lost his arm. The injured workman comes within the scope of the Compensation Act in Britain automatically. The Factory Inspector's office in the district has to be notified of every accident that happens in a factory or workshop. Even domestic servants now come within the scope of the act. Every person in Britain to-day, I believe, that is earning wages comes within the scope of the British Act, and if a workman has to leave the workshop for either two or four hours (I am speaking from memory) to be taken care of, that is, to have his wounds dressed,—if it is only a finger cut or a flesh cut, if he has got to leave the factory for a certain number of hours in connection with it, that has to be reported to the Superintendent of Factory Inspectors within that district within so many hours, or the employer is up against the possibility of a fine in the law courts for not having complied with the Factory Act in the way of reporting accidents. The moment that a man is laid off he comes within the scope of the act, and the burden of payment is on the employer no matter how he is insured against that liability, and when a case is brought in a law court it is the employer that has to put up the fight. The employee who has been injured has nothing to do with the insurance company with which his employer may have been insured. I think these various points ought to be taken into consideration. The interpretation of the various clauses in the British Act caused a great lot of litigation in the first three years that the first amendment was in force. There were all the different limitations—the height of a building from which a man should fall, and so on, and the kind of place that was going to be declared a factory so as to come within the Factory Act. All these things led to litigation, and it is true that a larger proportion of the money that was spent in those cases went to pay law expenses than what went to the injured. I do not think, sir, that that will be so to-day, although I have no data to go on. I have seen statistics wherein it was said that from thirty to forty per cent., or $30 to $40, in every $100, I think, was all that gets to the workman in Britain, but I do not think that can apply to the last amendment of the British Act. These statistics must have been taken from the beginning, 1896, I fancy. I do not think there is any chance of the same amount of litigation under the British Act now that there was in the amended act of 1896, because of all the different limitations and interpretations that had to be fought out in the courts. I think the more concise and simple the act the better it will be for everybody.

With respect to the other objection that the gentlemen have mentioned here, in connection with the insurance companies laying a ban as it were upon the man over 35 or 40, or whatever it may be, that is already in existence independent of the insurance companies. The manufacturer is in business for profit, and when a man gets to a certain age he has more difficulty all the time as he grows older in getting employment under the present industrial system. It is not because of the insurance companies in Britain laying any ban upon the older men because they are more liable to accident than the younger men. That is quite true, but that system is being applied by the employers, and we have been told by the employers, if there had been no Workmen's Compensation Act in Britain, that that is one of the phases of our industrial system at the present time.

Mr. Bancroft: There has been an argument used against the British Act which has the entire sympathy of labour in this country, and that is that in the case of the insolvency of the employer the workman loses. It is not generally known that there is a provision made in the British Act for the insolvent employer, that

if the employer is not insured against liability under the act, a workman can claim up to the extent of £100, which is equivalent to $500 as a preferential debt which must be paid in full before any other creditor can receive anything.

THE COMMISSIONER: That would not help a case such as Mr. Hunt's.

MR. BANCROFT: If the compensation is a weekly payment this amount is to be taken out, but with regard to any balance over £100 the debt must be proved for as an ordinary debt. That is only one part of the clause and there are five. This is an interpretation of the British Act by one of the foremost barristers in Great Britain, and that is how a man can claim. Insolvency has no terrors for the workman. I believe if you were to give us the British Act we would meet the terrors of insolvency and the other objections that the manufacturers put up.

MR. MILLER: In Mr. Hunt's case he would simply have claimed by notice to his employer, and another notice to the Inspector of Factories that he had been injured, and the act goes into operation at once. If his employer said he could not pay any compensation he is under the law and he is compelled to pay. It is not a question of whether he is able or not, the law says he has got to pay.

THE COMMISSIONER: Have you got a country where it is possible to get something out of a man who hasn't got it?

MR. MILLER: In this particular case the man would have been made insolvent and the first charge against his estate would have been Mr. Hunt's claim. It is a preferential claim the same as a workman's wages are against any insolvent firm.

THE COMMISSIONER: If this man he was working for was a tenant of the premises and had no property, his compensation would be useless to him.

MR. MILLER: He has a business.

MR. HUNT: The mill could be sold, sir. I was just thrown to one side. He owned the mill.

THE COMMISSIONER: How did the lawyer come to advise you that you couldn't get your money?

MR. HUNT: He claimed the case would go against me because there was no actual negligence shown on the part of the employer.

MR. BANCROFT: "In any case where the workman knew of the defect or negligence which caused his injury, and failed without reasonable excuse to give or cause to be given within a reasonable time information thereof to the employer or some person superior to himself in the service of his employer, unless he was aware that the employer or such superior already knew of the said defect or negligence" and so on. That is where the onus is put upon the employee. This is the old Employers' Liability Act in Great Britain, but I believe it ought to be sufficiently changed, and very much changed, before the public get justice.

THE COMMISSIONER: I think the juries generally apply that in favour of the workman.

MR. MILLER: There is one phase of the question which ought to be taken into consideration that has not been dealt with very largely this morning, and that is the prevention of accidents. The whole trend of the law should be for the prevention of accidents as much as for the compensation for an accident when it has happened. In Great Britain they have a very large system of factory inspection. I do not believe there is anything better any place in the world than they have there so far as factory inspection is concerned. The employer is bound by law to protect his machinery in such a way that it will eliminate the possibility of accident as much as possible.

MR. HUNT: That brings up the point of where I was hurt. If it had been in Britain I wouldn't have been hurt, but in this country there is no inspection under the act for a portable sawmill. I don't think that comes under the Factory Act.

MR. MEREDITH: I would like to say with respect to the railway man that the chief difficulty we have found has been the matter of putting the matter back from one court to another. If we get a verdict in one court and there is anything in favour of the workingman it is a dead sure thing it will be put back to another court, and if it still is sustained in favour of the workingman then it is put back to another court, till at last whatever compensation the man got or his family got would amount to nothing,—the law costs had eaten it all up. That has been one of our great difficulties as railroad men. Perhaps in the Dominion we have some better laws than some of these men seem to enjoy with respect to the manufacturers, but I think if there could be some way arranged, as far as we railroad men are concerned, that if a man is killed or hurt that there should be a definite sum set which he should be able to get without saying he was contributory to the act, because it is easily shown nearly always in the case of railroad men, I know—in fact in my own case it was shown that way—that I probably was as much to blame as anybody else in getting hurt. Well, I may have been a little careless, but at the same time here is one thing we find: there is provision made in the Railway Companies' Laws that there are certain things we must not do in shunting and coupling, and in going around the trains, but we find if we don't do those things they don't want us. If you are not prepared to take a risk you can simply go about your business, we can get somebody else that will. So a man naturally goes and takes a risk and he gets hurt. I had that hand all smashed up, and I have had two or three other accidents besides that, in getting up between the engine and the car, and so on. I was a conductor at that time, and I found if I didn't take those risks they didn't want me. Now, that was all there was about it. We want to get over that difficulty. What we want is when a man gets hurt, when his family is dependent on him for a living and he is dependent on his good health, and his strength and his limbs to get a living for them—he suddenly finds that that source of living is cut off. What we want is that something should go into effect that would insure a man's family and himself if he is permanently injured, that he will be able to get, at any rate, a bare living at the expense of somebody, we are not going to say who. In the great majority of cases with us we have an insurance scheme. I am in it myself to-day. I am paying in it yet. I tried when I got to be nearly 70 years old to get part of that out, but the doctors said I was yet fit to work as well as any other man and he would not pass me. So I have to pay into this insurance yet, although there is a provision made that we should be able to pull out. Thank God, I am not dependent on the railroad for a living to-day so I am able to get along without it, but if I was I would be like I see a good many more, my family would be probably starving and I would be out of a house and home.

MR. TABER: As an employer of labour I would like to say a few worls. I have had some accidents in my place and not having liability insurance I of course had to see them through. I now have liability insurance, that is, insurance against legal action, but I do not think but that when employees are hurt a good employer will always stand behind them. I would just like to say that we want insurance; that any good employer feels he wants insurance, not assurance in that way, and I suggest some form of reciprocal insurance, and that all the hazards be classified, and the government would deal with the liability to each injured person,

and the manufacturers and employers of labour would then be assessed according to the damage. There are so many different lines of business that it would require very comprehensive legislation to protect all the different workmen that are injured. There is no doubt about that, but it is a matter for the Government or the Commission in some way to get at the whole question to secure everybody, because there is the insolvent employer you can't get at, like the case of Mr. Hunt. He can get no remuneration or no help, and if it was done through a Government tribunal in some way this man could get some help, because the whole class of that particular manufacturer or employer of labour would have to bear it universally. A manufacturer or employer of labour would then feel secure also. Liability insurance is not satisfactory to a man from the human side of view. I feel that way. I feel I would like to do something for those who are hurt in my employ, and I do it, but the liability insurance would not help me or them at all. I pay the money out to them and the return is only legal protection, and the moral side is lost sight of. I think that is all I have to say.

MR. WEGENAST: What company do you represent, if you don't mind telling me?

MR. TABER: The Toilet Laundry Company.

THE COMMISSIONER: I didn't quite follow what your suggestion was. Would it be that there should be an assessment upon all the employers when an accident happens, that they should by an assessment form a fund to meet all the expense?

MR. TABER: Well, in that case, your Lordship, there would be some delinquents. Let the Government deal with this question, and attend to all accidents and remunerate according to the loss, taking into consideration the risk and how the employee had been injured and the conditions he worked under, and whether he had been careless or negligent. They could weigh all those matters and then afterwards assess that class of industry with that loss. That is over the whole class, on a basis of insurance or an assessment in the form of a tax. That would cover the points that I learned from the gentlemen here the Workmen's Act does not cover. That is what I would think.

MR. BANCROFT: Would you be in favour of the German system of compensation, where the employers form trade associations and have a fund for that purpose, and distribute it over the industry?

MR. TABER: Of course that would be working against the interest of some. There would be a class that would be in that association and a class that would not. An insolvent man would possibly not be in that association and a man in that case would have no relief at all: he would have no remuneration.

MR. BANCROFT: Do you intend the whole burden to be borne by the employers?

MR. TABER: Yes, as a class. Arrange them all into classes. Classify them as our present system of assessment is.

MR. GIBBONS: You mean for instance take men who are engaged in foundry work, in the case of an accident those who operate foundries would be liable for that accident?

MR. TABER: Yes, and in the furniture business anybody who is injured in that line, it would be that class.

THE COMMISSIONER: Do you not think it would make some trouble with a man who has been hurt in a factory, and where the man has been careless or had not proper appliances? Would the careful man not say: Why should I be called upon to help pay his loss?

MR. TABER: It would then work against some men who had fine factories

with safety appliances. It would work out against those men and it would be a case then for the factory inspectors to see that the equipment was up to date.

MR. BANCROFT: In Germany they have, I don't know whether it is a Conference Board or what it is, but they have some kind of a Board where they decide as to the most modern protective devices, and the employer has to instal them.

THE COMMISSIONER: It has been pointed out that there is nothing analogous to the trade associations in England at all, that they are what used to be the old Gilds; that these trade associations are live associations, and that there is no such thing in England.

MR. BANCROFT: They are nothing like the Gilds. The Employers' Association in Germany consists of employers, and the Gilds have masters and apprentices and journeymen.

MR. TABER: I can understand the manufacturers' position. Their attitude is perfectly right. They feel they want insurance. They feel they have to stand, as I have had to do, behind old employees or someone who has been faithful in their business and they don't like to see turned out, although they may be a little negligent and get hurt. I think that is a proper position to take.

MR. WEGENAST: The chief concern of the manufacturing interests and the employing interests in this Province will be to my mind to eliminate the waste that is incident to our present system, and to any system of employers' liability. If we can eliminate the ambulance-chasing-lawyer it will be a good thing.

THE COMMISSIONER: What is that?

MR. WEGENAST: The so-called ambulance-chasing-lawyer, and the dividend collector of the liability insurance, then we shall have conserved to a very large extent the interests of the employers. I do not want to enter into any details, but it just occurred to me to add that to what Mr. Taber had said.

MR. C. LAWRENCE: I am a locomotive engineer by occupation. We have been interested for some time in a Workmen's Compensation Act, and I have been trying to get what information I could from different sources. I attended a meeting in Chicago last Monday and Tuesday, of a Commission appointed by the President of the United States, to enquire into and report upon some form of Workmen's Compensation Act. A number of gentlemen spoke at that meeting. Among them were two or three solicitors for railroad companies. A gentleman named Lathrop, a solicitor of a company in Sante Fé spoke, and said he was one of a number of twenty-one lawyers who met in New York City sometime last April, I think. I am not sure as regards the date, but it was after this Commission was appointed. These lawyers were from different parts of the United States, all railroad solicitors, and he said they were unanimous in their opinion that there should be some better compensation act for interstate commerce. I understand that in those engaged in commerce from one state to the other. He read a resolution there pledging themselves to lend this Commission all the assistance they could towards working out a Compensation Act along those lines. There was another solicitor there representing the New York Central lines named Cary, a Chicago gentleman. He gave some valuable information, and he cited the method that the New York Central lines had used in meeting these cases. He said they never allowed a case to go to court if they could prevent it. They often paid out what to their judgment was more in order to settle a case, to prevent it going to court, and he gave two or three different reasons. The principal one was that if a case went to court there always was created a bad feeling between the employees and the officers of the road, and they wished to avoid that as much as possible. He thought in the end they paid out a little more, or it cost the companies a little more

by doing this than if they allowed it to go to court, but they had better service from their employees by not doing so.

This Commission has been meeting a number of times and there are some minutes of the previous meetings, and if it would be any service to the Commission I would be willing to let them have the books. They have promised to furnish me with the minutes of all the meetings.

At one of the meetings which was held in June, in Washington, there was a gentleman there who had a Bill drafted up, and I think something along this line would be satisfactory to the railway men of this country. This gentleman stated, "We would like to get away from this litigation if we possibly could." The man who had this Bill drafted up—I couldn't say it was submitted to Congress, but it was drafted up for that purpose, has nearly everything covered in it. They propose in this Bill to assess steam roads for instance. They were talking most about them. He proposed in this Bill to tax every locomotive in the country so much a year for the purpose of creating this fund. Then there is so much allowed in the case of death, and it is paid to the widow or the man's beneficiaries, so much a month. For instance, in the case of a widow it would extend over until 90 days after she re-married, or as long as she lived. It also provided a percentage for the loss of a hand or an eye; for the loss of both eyes; and so on. The cases are too numerous to mention, but it covers almost everything you could think of in the case of an accident, and it is figured out on a percentage. It runs all the way from a man's life to the loss of a toe or part of a finger, in monthly payments. It is figured out on a percentage basis of what his salary would be. At this same meeting there were a number of solicitors—not this one I attended, but the one held in June—and besides their speeches in here they have filed a brief and in this brief there is this Bill that this gentleman had drafted up. There was another gentleman by the name of Boyd who gave some valuable information. He is the Chairman of the Compensation Commission of the State of Ohio. He mentioned a number of cases. For instance, he said, with accidents on a railroad, a good many people think the accidents are all caused by some person's negligence, either the employer or employee. He says not. He has spent the last twenty-one years in getting statistics along those lines and he claims forty-four per cent. of the accidents on railroads are not to be avoided. That is, they cannot be avoided. They happen through circumstances that cannot be foreseen, for instance, the case of a broken rail which causes the loss of the lives of the employees as well as the travelling public. He cited a number of cases where it was true these accidents had happened and where they could not be avoided. Then he went on to say that eighteen per cent. of the accidents is due to the employer and twenty-eighty per cent. is due to the employee. He had also figured out what was accountable for the other accidents, but I didn't get those statistics. He also showed at the present time on account of litigation that there is only in the State of Ohio, for instance, eight per cent. of the employees who recover from the company. That is those who enter into litigation. In the State of New York there is a trifle over twelve per cent. recovered from the railway company, and I suppose those figures will largely apply to all countries, Canada as well as the United States. If that is the case there is a lot of money spent that should not be spent. The information is also given to show there is only thirty-seven per cent. of the money that is recovered from the railway companies that goes to the beneficiaries. The rest of it is eaten up in costs and things like that. Sometimes these cases extend over a number of years. Now, if we could get something that would help us to get away from this litigation I think it would be satisfactory to the railway

employees. That is our main object, to get something worked out along the right lines, and this Bill that this gentleman has provided seems to be all right. He has provided for a Commission to settle these cases, and of course it is worked out in such a way that I cannot see where there could be any chance of fraud in connection with it. Of course you can readily understand if we can get away from litigation that all parties interested would be better satisfied, and it would be much more satisfactory than at the present time, especially to the beneficiaries. Take the case of the widow, for instance, suing for the recovery for the loss of her husband. It naturally happens that the family has had distress enough by the loss of the bread-winner without being necessary for them to engage in litigation in order to recover something for his loss.

I thank you very much, gentlemen, for your attention, and if something could be worked out along that line I am sure that we as railroad men would appreciate it very much.

THE COMMISSIONER: If you will hand those books to the Secretary we can have them before us.

MR. LAWRENCE: Certainly. You can keep them for I have two sets.

THE COMMISSIONER: As there seems to be no one else who wishes to be heard just now we will adjourn. If anybody desires to be heard more fully an appointment can be made later on. I would like to know what date would be convenient as I have other work to attend to, and I would like to make them all fit in as well as I can. When will the body you represent, Mr. Wegenast, be in a position to lay your views before me?

MR. WEGENAST: I can hardly say just now. We have a meeting of our committee to-morrow, and I could let you know after that.

THE COMMISSIONER: We cannot let it stand very long.

MR. WEGENAST: I will make every effort to expedite matters, but as I said before it is a very large task to formulate the views and opinions, and the desires of 1,800 manufacturing concerns. It is to the interest of everybody, I suppose, to have those opinions formulated and to have whatever representations we make to this commission really represent the views of the manufacturers of the Province, and it is only to that end that there may be some delay.

THE COMMISSIONER: When would you like to be heard on behalf of your organization, Mr. Gibbons?

MR. GIBBONS: I think the workingmen would like an opportunity of meeting some evening. A great many men who are interested in this are working for their daily wage and cannot get away during the day, and if some evening could be set aside when they could express their views it would be appreciated. I think any evening you might set we would be prepared.

THE COMMISSIONER: Well, Mr. Kennin, the Secretary, can be notified and I will see what can be done.

MR. BANCROFT: Is it the intention of the Commission to hold sittings in other cities besides Toronto?

THE COMMISSIONER: Nothing yet has been decided as to that.

MR. BANCROFT: We may have representations from the Dominion Trades Congress which represents over 100,000 members, and we would like to know so that we can give you all the information we can at the most convenient place.

THE COMMISSIONER: That can be settled later.

I would like those who are interested in this matter to consider one or two aspects of the case that seem to be important. Under an accident system there is practically a guarantee that whatever is to be paid as compensation will be paid.

Under the Workmen's Compensation Act, the British Act, or any act I have seen, beyond a somewhat meagre provision in the case of insolvency there is no security, and if the man that is under the liability goes to the wall the person to whom the compensation is to be paid loses it and they are out in the cold. That does not follow under an accident system, because as I have said that would be guaranteed as long as the thing continued.

MR. MEREDITH: By whom?

THE COMMISSIONER: By the State in some cases, the State taxing the industry in some way, or levying in some way that the legislature deems best. That aspect I think is an important one. I do not see in the case of periodical payments spread over a number of years, what guarantee there is to the persons entitled that they will surely get their compensation. If failure comes the later it comes the worse for those people, for they need the money most perhaps at the time it stops. That difficulty would not be incident to an accident system, and it occurs to me it might be possible to have a scheme on the lines of the legislation of the State of Washington, or partly along those lines. Of course I cannot say. I don't know whether the State would be willing to take that matter up.

Then there is another matter which the gentlemen might consider. It would occur to one that if in one province an industry is handicapped by a greater liability than in another province, that industry will compete at so much disadvantage with the other industry. I do not know whether under our constitutional system it would be practicable, or if practicable whether it would be desirable that there should be a Dominion law of compensation applicable to the whole country. I would like you to consider that. I am not throwing it out as a view I have at all, but merely as a matter which might properly be considered. I have heard it said that the manufacturers do not object to compensation, but they do object to their being handicapped with greater compensation than their competitors in other provinces. I suppose any measure to be satisfactory must be a fair one and we must look at all sides of the case, and I want you gentlemen who are of the army of industry to consider these aspects of the case as well, and let me know if you do not agree with the argument what your reasons are for differing from it, because I assume that you will not differ unless you have a reason for differing.

MR. BANCROFT: It might be well to have sessions where the manufacturers' representatives and the representatives of organized labour could meet the Commissioner.

THE COMMISSIONER: I would like to see them face to face.

You mentioned something about private meetings, and I don't know what that means. It does not mean surely that representations are to be made on behalf of anybody that are not public representations?

MR. BANCROFT: If I made any reference to a private session, I meant private sessions held by yourself where representatives of the different organizations could state their ideas, that was all.

THE COMMISSIONER: Every meeting I hold, unless I see some reason to change my present view, will be public where everybody shall have a right to be heard. Perhaps you gentlemen can arrange some time that will be convenient for both of you. However, do not let us waste time, if I may use that expression, because we want to get at some result, and unless something can be got ready in time to be considered before the House meets nothing can be done. The House usually meets in January or February. I may call another meeting such as this even if I get no intimation such as I ask for.

SECOND SITTING

LEGISLATIVE BUILDING, TORONTO.

Friday, 27th October, 1911, 11 *a.m.*

PRESENT: SIR WILLIAM R. MEREDITH, *Commissioner.*
MR. F. N. KENNIN, *Secretary.*
MR. W. B. WILKINSON, *Law Clerk.*

THE COMMISSIONER: I have received a communication from the Dominion Minister of Labour which the Secretary might read.

The Secretary read a letter from Mr. Thomas E. W. Carruthers, Minister of Labour, to Sir William R. Meredith, dated 25th October, 1911.

THE COMMISSIONER: When the Commission adjourned on Monday it was understood that the persons interested would meet and arrange a suitable time or a convenient time for a hearing of their interests, so that persons upon both sides would be present at the same time, and we are here in answer to their desire to hear what they have to say. The day before yesterday, Mr. Wegenast, representing the Manufacturers' Association, called me up and said that the Association was not prepared to lay its views before the Commission, and intimated that some delay would be necessary, not saying what delay. I told him I could not deal with the matter except publicly and that I would call a meeting for to-day when any representations that the Association desired to make could be dealt with. Mr. Wegenast intimated that the Association had relegated the matter, as far as it was concerned, to a committee consisting, I think, of Mr. P. W. Ellis, Mr. Gourlay, and Mr. G. M. Murray, the general secretary of the Association.

MR. WEGENAST: Mr. Murray and Mr. Gourlay are here, but Mr. Ellis cannot be here to-day, unfortunately.

THE COMMISSIONER: I am ready to hear anything the Association has to say.

MR. WEGENAST: I suppose it devolves upon me to open the matter. As your Lordship has stated the object was to have a committee wait upon your Lordship to explain the attitude of the Association on certain phases of the inquiry. Unfortunately the Chairman of the sub-committee could not be here to-day as he is engaged at a meeting of the Niagara Falls Park Commission at Niagara Falls. It may not be amiss to state that Mr. Murray, as your Lordship is aware, is a member of the Dominion Technical Education Commission, and he is here only by sacrificing his attendance on a week's sittings of this Commission in the New England States. I say this in view of the request that we are making for further time in which to consider this matter. As the resolution of the Association sets forth the Association is prepared to go into this question in the fullest manner that anybody could desire. I need not state that the question of compensation involves further considerations of what might be termed a conservation of industrial efficiency, to which Mr. Carruthers alludes, and also to a very large extent the economic welfare of the country generally. I need not perhaps elaborate either on this phase of the situation, that the Province of Ontario is in a unique position to deal with this question. Apart from the Chamberlain Act of 1885, which was introduced here in the Act of 1885, the ground is absolutely clear for the adoption of any scheme of legislation and compensation that may seem best. We stand in this

unique position that we are the only jurisdiction that has not adopted legislation of some kind, with the exception of the American States, which are hampered by their constitutional restrictions, and find themselves in a very much less favourable position than we do. Taking that view of the matter perhaps our Association may be pardoned for assuming that it is intended to make the whole inquiry a most thorough one into all the phases of the subject. I think we are not going too far in assuming that under any circumstances. We have also the advantage of the accumulation of experience during the past thirty or forty years in other jurisdictions. We have that experience available in an immense mass of data, which has to be gone through by anyone to realize its real importance, as your Lordship knows. Eleven years ago the Government of Ontario appointed Professor Mavor, of the University, as a Commissioner to report to the Government on the question, and the gist of his report was that the time was not opportune then for going into the question. The paragraph giving his general conclusion is this: "On all grounds so far as any definite conclusion is suggested by the foregoing it would appear to be wise to wait for some time in order to ascertain more fully what has been the effect in the change in the English law, and ascertain, also, whether the change in the German legislation or otherwise be not amended in England." The matter has now rested for eleven years, and data has accumulated so that now it consists of an immense mass of reading for anyone who undertakes to intelligently discuss the subject. Recognizing these phases, I was instructed by the committee of the association, when your Lordship was first appointed, to write your Lordship offering the co-operation of the Association in any manner in which your Lordship thought we could be of any assistance. That offer was repeated from time to time and responded to by your Lordship, with the assurance that in due time we would be called upon and advised as to your Lordship's wishes. I have, being in charge, to report to the parliamentary committee who were then taking up the matter from time to time, your Lordship's attitude in the matter, and we have been waiting the proper time for taking the matter up. Now, without unduly magnifying the part that it is possible for the Association to play in the matter, we recognize the fact that we have in our power as an organization to serve your Lordship to a considerable extent; in the first place, by collecting and formulating the opinions of the members of the Association; and I presume if this work were not done by our organization it would devolve upon your Lordship to hear individual members and to formulate these opinions and views for the Commission. We are also in a position to give information to our members. Your Lordship is well aware that this is a subject which it is scarcely possible to intelligently discuss without having some idea of what has been done in other jurisdictions, and we are in a position to take up the whole question from that standpoint with our members. On the other hand we are in a position as an organization to carry on negotiations with those who represent what we may term the other side of the question. But apart from this it has been suggested, and we have thought it might be possible, that the Association's organization might be utilized in an administrative manner. Your Lordship has suggested, for example, why couldn't the Manufacturers' Association take up the question along insurance lines? Now, whatever the attitude of the Association might be on any suggestion of that kind, it would be a question which would require the most careful and most mature deliberation of those in charge of our organization. We realize this too. We do not wish to unduly emphasize it, but there is not, I think, in any jurisdiction in the world to-day an organization corresponding precisely to ours in this Dominion. I say that without undue pride, rather with a sense of our responsibility. When

the German Act was framed in 1884, the Government of Germany had to deal with some forty or fifty organizations representing manufacturing interests—perhaps not all representing manufacturing interests, but at least some thirty manufacturing organizations. We are in a unique position in this respect in Canada. I do not think there is another jurisdiction where there is an organization of corresponding size to that of the Canadian Manufacturers' Association. We have as I say, without unduly arrogating to ourselves any importance that we are not entitled to, tried to look upon the whole matter with a sense of responsibility commensurate with our opportunity. While we have certain facilities for assisting your Lordship in the discussion and perhaps in the practical carrying out of whatever scheme is adopted, it would have been presumptuous for us to anticipate the course of this inquiry, or the attitude of your Lordship, or the attitude of those who will represent the wage-workers' interests, by a premature discussion, or by a premature formulating of opinion. If we had anything for instance, in the shape of the suggestion which your Lordship threw out at the first sitting of the Commission, that is, for instance, the suggestion of the Act of the State of Washington, or the suggestion of Dominion legislation, or a suggestion of a further development of the British Act so as to include some guarantee of solvency—if we had had anything of that kind to discuss we would have been in a position to take the matter up; but any one of half a dozen or a dozen very large phases of the subject may call for extended deliberation and most careful consideration on the part of the Association, before the Association's position could in the nature of things be stated. Your Lordship will understand my own position personally in the matter. I would be called upon to answer question after question and to state the position of the Association on these matters, and it is in the nature of things an impossibility for us to assume the responsibility of doing that without sufficient time for securing instruction. If I had attempted to anticipate your Lordship's views, which I think I had no right to do, or if I had presumed to anticipate the course of the discussion, I know now that I would have been entirely mistaken, and that any discussion which the Association would have entered upon at my instance would have been entirely wide of the mark. As a matter of fact I have feared that our Association may have gone too far as it is. We have issued certain circulars, certain publications, to our members. We had here in connection with our annual meeting a lecture in which the lecturer advocated certain lines of activity. I have thought that perhaps we made a mistake in going so far as that, and that we have possibly misled the public and the labour interests as to our attitude in the matter, whatever it will develop into. My opinion is not that we should have had some expression of opinion from your Lordship or from the labour interests as to what their desires were, or what line of policy would be adopted, or what type of legislation the labour interests would ask for. My point is this, that when the matter has reached the stage of propositions or the presentation of views, it will require a considerable length of time for discussion and counter proposition. I gathered from your Lordship's remarks that it is intended to report at the coming session of the legislature. We, on our part, will undertake to do everything that is possible to assist your Lordship, and do our part, whatever it may be, in this inquiry to enable your Lordship to report within that time, but personally I cannot see how it is possible for us to put our matter in shape within that time. I am not prepared to urge anything—I am prepared to undertake what seems to me impossible, but I thought it was only fair at this stage of the inquiry to place our views on that phase of the question before your Lordship. Now, your Lordship has

also suggested the possibility of our getting together with the labour interests and eliminating a large part of the discussion by mutual agreement on certain questions.

THE COMMISSIONER: I didn't suggest anything of the kind.

MR. WEGENAST: Well, it has been suggested.

MR. BANCROFT: By whom was it suggested? Was it his Lordship, or the labour men, or was it the manufacturers?

MR. WEGENAST: Well, my recollection of it is that his Lordship said, Why can't you people work out some scheme that would be mutually satisfactory? That is as far as his Lordship went in the matter. I understood that of course to be an intimation that his Lordship desired something of the kind, and I took steps immediately and reported so to his Lordship, that I had approached the representative men who are supposed to represent the labour interests to that end. That was over a year ago, and I have not heard of it since. I said of course that it was hardly our place, whatever our desires were, to press the matter, but I said we were willing to negotiate, and I stated that in this room again on Monday to Mr. Bancroft, that we are willing to meet them. In fact so far as it was proper for us we were anxious to meet them, because I couldn't see that any possible harm could come to anyone from a mutual discussion, and there was a possibility of great gain by having discussion on certain points. Then we have thought that it might be possible to secure conferences of the employers other than the manufacturers, who only represented a proportion. Mr. Murray, the Secretary of the Manufacturers' Association, is here, and he may have something to say on that point. I think it is possible to secure some degree of uniformity amongst the employing interests in all these matters. Of course I can't help feeling that I have done, and the Association has done, a little more than its share, and it seems the irony of fate that I should now be placed in a position of not being ready to do enough. The immediate occasion of my appearing before your Lordship is, that I had arranged before the announcement of your Lordship's first sitting to go to British Columbia on an important Commission there. I was to have been there on the 10th of November, but I received a wire last night which informs me that it would be possible to expedite the matter by appearing there on the 6th. However, as with Mr. Murray who has sacrificed his other engagements, I am prepared to do what I can to work the matter out, and if necessary I suppose I shall have to choose between the two engagements and another man will have to be appointed for one of them, although as a matter of fact they are matters which I have had in charge for a year and a half, and which it would be very difficult for anybody else to take up. That is in brief the position.

THE COMMISSIONER: I have not yet learned what is your position. You have not indicated what you want.

MR. WEGENAST: What we desire is more time.

THE COMMISSIONER: That is indefinite. Do you want a year or do you want a month, or what do you want?

MR. WEGENAST: Well, it is as difficult to state what length of time will be required as it is to discuss the matter.

THE COMMISSIONER: You have had sixteen months since this Commission was appointed in which to get your material ready, and I do not understand at all that it is possible you could have been lying on your oars all that time doing nothing. You knew all the phases that were being discussed. Nobody knows them better than you, and the different methods of dealing with this question, and it has been possible in that time for the Commission to gather a great deal of information from all parts of the world. I do not know what the Manufacturers' Association has been doing if it has not also been engaged in that work? Now, there can be no trifling

with the work of this Commision. There was legislation introduced before the Commission was appointed looking to the adoption of the British Act. I think two Bills were introduced, and the House thought it better not to pass upon those until an inquiry had been made by a Commission. The result was the appointment of this Commission. It would be out of the question I think that the session should meet without any report from this Commission. While I am quite willing to give every reasonable facility to everybody that is interested to present his views, I am bound to have my report before the House sometime during the session at all events; that is a *sine qua non*. I think it would be trifling with the question if that were not done.

MR. WEGENAST: Of course, as your Lordship has stated, I have had an opportunity of gathering this information and to no small degree have placed all the information which I have at the command of the Secretary of the Commission, and I am willing to place anything I have and anything that I know at the command of the other interests concerned, but that is a different matter from committing an Association and an organization like ours to lines of policy which may possibly require entire reorganization. The suggestion for instance of Dominion legislation was a matter which I had not personally considered, except as the remotest possibility.

THE COMMISSIONER: That is outside the scope of this Commission. I am to report legislation that is competent for the legislature of this Province to pass. Whatever recommendation might be made it would be outside the direct line of the mandate I have.

MR. WEGENAST: That was of course the view I took of the matter. My point is this, that it is impossible for the Association to pronounce on phase after phase of the question of workmen's compensation that will arise as the discussion proceeds.

THE COMMISSIONER: You have had the British Act before you and its operation for nearly five years, and surely you know what it means?

MR. WEGENAST: My point is that while I may be personally able to give a personal opinion, this inquiry, so far as I am concerned, cannot be conducted like a law suit in which I can, off hand, commit the Association on every phase that comes up in which the policy of the Association will have to be enunciated. It will require fresh instructions from time to time, and the question of what length of time it will take is a matter which I am not competent to say.

THE COMMISSIONER: I think, Mr. Wegenast, you will have to make your arrangements so that if you have any views to present they will be presented in time for the report to be made to the legislature at the next session.

MR. WEGENAST: Mr. Murray, the general secretary of the Association, is here, with Mr. Gourlay and Mr. Fleming.

THE COMMISSIONER: I shall be glad to hear what any or all of these gentlemen have to say.

MR. MURRAY: Your Lordship, I appear, as Mr. Wegenast has stated, in my capacity as secretary of the Canadian Manufacturers' Association. To begin with perhaps it might be in order for me to intimate to you just what that Association stands for in the industrial life of Canada. It is an organization which covers in a general way the entire manufacturing field in this country. Its members are located in every province of the Dominion, and the industries which it embraces cover practically every type of manufacture that is carried on within this country. As regards the Province of Ontario, in which perhaps you are more directly interested, I may say that we embrace within our organization approximately 1,600 separate and distinct manufacturing establishments. These carry representation

in all the important points of the Province, and so as in the case of the Dominion, they also cover practically all the types of manufacturing operations that are carried on in the Province. This subject of compensation therefore is one which interests us very, very deeply. It is a subject on which we have been carrying on investigations for a number of years. I think it is fully five years ago that we first began looking into the British Act and studying its operation. Commissions were, as you know, appointed in the Province of Quebec and in the Province of Manitoba to introduce new legislation on the subject there. Our branches in those provinces on their own initiative without waiting for direction from our governing body, undertook to formulate views for presentation to those Commissions. In the main, I think those views will find sympathy with the governing body of our Association, but there are certain features of the legislation which has followed the work of the commission in those two provinces which have not been entirely satisfactory either to the manufacturer and employing interests or to the employee. We feel we ought to profit by the experience of other provinces as well as by the experience of other countries. It is true perhaps that our investigations on this subject were carried on more or less spasmodically for a time, but realizing the necessity, if anything of a satisfactory nature was ever to be accomplished, of getting down to a systematic basis and prosecuting our inquiries in a thorough manner, we instituted some sixteen or eighteen months ago a legal department in connection with our Association, and retained Mr. Wegenast to look after its affairs. It is true that that department has not been able to specialize itself altogether on this one subject of compensation. We have had other matters to deal with which certain members of our Association would consider of equal importance. I need only mention the subject of extra-provincial corporation legislation. However, I can say this in all truthfulness that a very large portion of Mr. Wegenast's time in the last sixteen months has been devoted to compiling information on this subject, and the collection of opinions from those who are familiar with the operation of the laws of other provinces and other states and other countries. After he had collected a great deal of this information a summary of it was prepared. It was printed and sent out to the members of our organization throughout the Province of Ontario, with the request that they should get thinking along these lines with a view to formulating their opinions for this Commission. Under instructions from our Association Mr. Wegenast went to New York to attend the New York meeting of the Manufacturers of the United States, in order that he might consult with their officers and find out how they were viewing the question, and obtain the benefit of their experience. He there made arrangements to bring to Toronto for the annual meeting of our own manufacturers a lecturer, who has himself spent nearly two years in the investigation of this subject, not simply by reading reports and Acts, but by visiting foreign countries and studying conditions at first hand. On the whole we have conducted a campaign of education so that we could bring the manufacturers to a proper appreciation of the importance of this subject, and the possibilities of it. The upshot of it was that at our annual meeting held two weeks ago in this city a special committee was appointed to work upon the data which Mr. Wegenast has collected. That committee consists of representative manufacturers from all parts of this Province. They have already held a meeting to which they have come at their own expense and without compensation of any kind, and they are prepared to continue those meetings just as frequently as circumstances will permit. They have already made progress to the extent of drawing up a tentative declaration of principles. I am sorry I am not at liberty to say just at present what that declaration of principles contains, because it has not been approved by the com-

mittee, and it would be presumption on my part to anticipate what the committee may decide upon. I may say this, however, that there has been apparent throughout the discussion a desire to substitute the present system of liability insurance for some form of accident insurance, whereby those who are injured in the course of their employment would receive a reasonable compensation without having to have recourse to legal process. That is one tendency which I feel justified in saying I have observed.

THE COMMISSIONER: What does that mean, Mr. Murray?

MR. MURRAY: Possibly, your Lordship, I can explain it by reference to another matter. Feeling the injustice of forcing those who are injured to fight for every cent of compensation which they may get as a result of their injury, a number of our manufacturers have formulated an insurance scheme of their own. In the formulation of these schemes they have consulted their employees. In some cases they are bearing the entire cost themselves, and in other cases a small portion is contributed by the employees, but I can instance a number of establishments in this city and in outside cities, where such schemes are in effect and where they are working out to the satisfaction of both employers and employees. Now, sir, it has been suggested that in the extension of that system there should be organized among the manufacturers of this Province a large mutual accident insurance company, in which every manufacturer would insure his pay-roll, not in the way of a liability insurance to fight claims for compensation, but to insure it in such a way that those who are injured will immediately, upon proof of the accident, receive the compensation to which they are entitled. I may say further that I think that scheme is viewed with very general favour by the manufacturers. I need not remind you that less than four years ago the suggestion was made that we should organize a mutual fire insurance company among the members of our association, and we did it, and what we have done in that direction we can do in the direction of accident insurance if we make up our minds to do it. We are now merely discussing the advisability of it and as soon as that question is decided then we are ready for action. But here we are confronted with this question: will our efforts along that line be acceptable to this Commission, or to the Government to which this Commission will report? In order to organize a mutual accident insurance company a great deal of time and effort and money will be necessary. To begin with we are confronted with an embarassing lack of statistics on the subject of accidents and causes contributing to them. Before we can intelligently classify industrial risks and base rates of insurance we must have the full statistics, and those statistics have not been compiled by any authority in this country, and, therefore, it will be for us to do pioneer work in that field. The present basis of liability insurance rates is so vague that the liability insurance companies themselves will not divulge what it is. As I say, therefore, we are in some doubt as to whether our efforts along that line would be acceptable. We would welcome any direction that this Commission might give to our efforts, and on behalf of the manufacturers personally and our Association I can assure you, sir, that we will bend our best energies to the solution, or at least to the formulation of our ideas, upon any line of policy which you might see fit to indicate. As regards the question of time, I regret exceedingly that I cannot state just how much time might be required, but I can say that even as the manufacturers have not dallied with this question since the time when we inaugurated our legal department, about a year and a half, or a year and four months ago, we will continue to prosecute our inquiry with all the diligence of which we are capable, and I can conceive that it might be possible for us to have our recommendations in shape to lay before you in time to permit of a report being presented to the next session of this legislature, providing some direction is given to our inquiry.

THE COMMISSIONER: How would it be possible for any direction to be given? Conclusions have to be reached before any direction can be given, and conclusions cannot be reached until the whole subject has been considered. Surely it would be quite competent for the Manufacturers' Association if they favoured a system of mutual insurance of all their employees to say that, without elaborating all the details. You need not go into that now, one would think, for the purposes of this Commission. I suppose you could very soon determine whether it would be beneficial and a feasible scheme to form a company of that kind. It would not take long to determine that.

MR. WEGENAST: We have the manager of our Insurance Department here.

THE COMMISSIONER: The State of Washington evidently had to grapple with that because it has adopted State insurance with a graduated tax upon the manufacturers, and that of course must be based upon the same considerations as would be involved in a scheme of mutual insurance. I don't know anything about the basis, whether it is a fair one or not.

MR. MURRAY: On that point I might state, sir, that I would not anticipate any difficulty in obtaining an expression of opinion from the special committee of our Association having the matter under investigation within the next month.

THE COMMISSIONER: Supposing that was considered, as far as that branch was concerned, a fair method of dealing with the matter, what about the other large interests involved? While that is a very considerable portion of the industrial army it is only a part of it. What about the part that Mr. Merrick represents? What would you do about the other organizations not coming within the scope of your organization?

MR. MURRAY: That is one of the reasons we feel that time is necessary, because any ideas we may have to advance ourselves will only be on behalf of the manufacturers, and we would prefer to come before you with suggestions which we know would be acceptable to other employing interests, and if possible to the labour interests as well.

THE COMMISSIONER: The effect of the British Act is practically to make the manufacturer an insurer of his men, unless the man by serious misconduct has to suffer the loss, if the injury takes place in the course of his employment. Is that not individual insurance?

MR. MURRAY: Of course that is a form of insurance, but we would like to approach the subject from an entirely different standpoint.

THE COMMISSIONER: Do not misunderstand me. I want all the information I can get, but I do not want any undue delay in reaching a conclusion. Something ought to be done. I do not suppose that what is reported and what is done, if anything is done, by the legislature will be final. We are moving on all the time, but the thing is, if the law is in a bad shape, to get it in a better position. Let us make a step onward.

MR. MURRAY: All I can state, your Lordship, is that on behalf of our Association I will give you an undertaking that this matter will be pushed in our committee just as diligently as it is possible for anyone to push it. We have already postponed other work in order to expedite this question, and Mr. Wegenast is prepared to cancel his engagement to appear before the Tax Commission of the Province of British Columbia on a question of extra-corporation legislation. As Mr. Wegenast has told you, I happen to be a member of the Royal Commission of Technical Education, and after a somewhat lengthy recess my colleagues left to prosecute their inquiries in the New England States in the early part of this week, and that field promises to be one of the most fruitful fields for our investigation, and I felt very

strongly that I should be there with them. I feel, however, that this question of compensation is of such far reaching importance to the manufacturers of this Province that my duty requires me to be here and to assist so far as we can, sir, through the work of our committee, and the presentation of views, and suggestions to you that will enable you to report to the legislature what will be, I hope, one of the best acts ever put upon the books of any State on any country. It is in that spirit, sir, that we are approaching this investigation, and the manufacturers will be very sorry indeed to see their efforts thus far negatived by lack of time of perhaps at the shortest a few weeks, or perhaps at the most a couple of months.

MR. GOURLAY: I do not know that I have very much more to say than what you have already heard, other than to emphasize the fact that the manufacturers as a class, independent of their officers, have not as yet had much opportunity of getting together and discussing this matter from its various aspects. Rightly or wrongly we had hoped, some of us, that we would have had some months' notice in advance of the time of the sitting of the Commission, and whilst it may in some measure appear as if I were blaming our officials, yet as you have heard it was only two weeks ago that the committee was appointed with power to profit by the investigations that have been made during these months, and which, I can assure you, have occupied a great deal of time and thought to give the whole question careful consideration, not merely in the interests of the manufacturers—because after all we are citizens as well as manufacturers—and we feel the legislation which is contemplated at the present time should be on such a provincial or national plane, if I may so put it, that it will give the maximum compensation at the minimum of cost in the matter of administration. It should also take into consideration, I submit, sir, not merely the individual factors that may be represented by the members of the Associations, but the whole question of prevention of accidents, and of legislation to make the appliances for the prevention of accidents more thoroughly and universally used, not merely by the manufacturers themselves, but by employees, because the court statistics indicate very often that safety devices are not used at the time of accident. The question is a large one from the standpoint of the prevention of accidents, and from the standpoint of the utilization of medical aid so as to minimize the injury from the accident, as well as to get the maximum of compensation at the minimum amount of cost in the matter of administration, and also as to the provincial aspect as to dealing with all classes of accident. We suffer largely from accidents outside of merely industrial enterprises, and even if this act should deal with only industrial enterprises it should be large enough to take in prevention along the lines of a larger measure for the whole Province and the whole State. I submit to you, sir, as men who are vitally interested, and of men who are in daily contact with their employees that there should be an underlying principle that the legislation should be of such a nature that the bond between the employee and the employer shall be stronger and better than it has been before, and that any element of friction shall be taken out of the way. In regard to any act that is put upon the statute book that the administration of any such act as this shall be along such lines that the bonds shall be closer than ever before, and we think we are entitled, if it takes time, to give all these aspects thought. The suggestion has been made, no matter where it came from, that the employee and the employer should get together and discuss this matter in a conference, and we might come to an agreement on some of the matters, if not upon all the matters, and we could then have your judicial opinion as to what is right and proper; and therefore, I submit if you could see your way to carry it over for even three months I am

satisfied we will come before you with something, having given the matter thought, that will be in the general interests of the community.

THE COMMISSIONER: Just one word, Mr. Gourlay, I would like to say. This question of prevention of accidents is, no doubt, a very important matter. One of the objections that Mr. Asquith urged to the legislation by the Government some years ago on the Compensation Statute was that it did not deal with prevention. It was pointed out by Mr. Chamberlain in answer that they were not necessarily connected, and that the other matter could be dealt with separately. Now, I have no mandate to make any inquiry upon the subject of prevention of accidents, but I would like to make this observation in consequence of what has often appeared before me in accident cases, and that is that safety devices are provided by the employer and the workman does not use them. The foreman knows that he does not use them. Now, if the employer would let his foreman understand that if he does not report and dismiss a man who does not use his safety device, I think you would not have many of these cases of workmen being injured owing to the safety device not being used. What they do is, they practically wink at the disregard of the safety device which the employer puts there. That is a feature that has struck me in several trials which have taken place.

MR. FIRSTBROOK: Your Lordship, there is only one phase I would touch on in addition to what has been said, and that is there is no antagonism between the employers and any other class in this matter. We are seeking to get at a solution that will be in the interests of all. Of course at times I compare notes with my fellow manufacturers on the matter of treatment of employees in the case of sickness and accident, and I have failed yet to meet an employer who has not compensated his men in the case of an accident and sickness, and nearly all in addition to the protection that they pay for from the companies. I have in mind now a firm that were unfortunate enough to have a fatal accident in their factory some years ago. The employee who was killed left a widow and two boys, and that firm took care of the widow and took care of the children during a number of years, until they were able to learn a trade and do for themselves, and until the widow married again. The weekly compensation that the husband was receiving was paid to the widow during these years. In fact in every case of an accident to an employee of that company a portion at least of the wages is paid without reference at all to the heads of the firm. It is paid by the time keeper. In many cases the full wages have been paid both in the case of accident and sickness; so that with the employers that I have spoken to, I have failed yet to meet one who has not been sympathetic and who has not helped in that direction, and for this reason I submit we are working in the interests of all concerned, both the employers and the employees. There is another matter that occurs to me in this connection, and that is, that any legislation that is put through in Ontario should be, perhaps, as nearly as possible, in conformity with what may be in other provinces, for this reason, that we have to compete. Our manufacturers have to compete with the manufacturers in other provinces, and if there is an extra tax on one beyond what may be in other provinces it would perhaps be a hardship, not only to the manufacturers and employers of labour, but to the labour men themselves. I think these are the only points that I might mention.

MR. MERRICK: Your Lordship, I represent a section of the employing interests. To a large extent the interests of the employers are not identical with those of the manufacturers, for this reason, that the employers are in a very large number of cases, men of very small means. I might say that the majority of them have arrived at the position of employers on emerging from the ranks of the workmen.

so that in the cases that were cited here at the last session, if a penalty is placed on the employer, without great care being exercised, not only would the working men not receive compensation, but the employer would automatically be extinguished in business. That is a phase that requires a very great deal of consideration in connection with the employing interests. There is a disposition on the part of the employers to give this matter their careful attention and very general attention and with the view point of giving as wide compensation as possible to the injured workman. The employers, as I say, are drafted largely from the ordinary workmen, who have graduated from the working ranks by reason of skill and efficiency or the saving of the necessary capital to start in a small way in business. We have felt that not only is the present Ontario Act an unjust one, but that the act that is in force in Great Britain is also an unjust one, and one instance was brought forward by the young baker who questioned Mr. Macdonell at the last session with regard to how insurance rates automatically removed those who were maimed or physically unfit from the ranks of industry. That is a case we want to guard against in the Ontario act, and as far as I can see the most reasonable suggestion is the one along insurance lines where automatically if a man is injured he would be compensated for the damage he has suffered by reason of the fact of having come in contact with the unfortunate part of industrial life. The man who is wilfully negligent or through some other reason under our present Act is deprived of compensation would, we believe, be permitted to receive this compensation on account of the fact that the premiums which now go to resist claims will go to pay compensation. It is along that line that we require a fair amount of time to consider the best method to submit to your Lordship in connection with the employing interests. I had a meeting called to-day to go into the questions raised at the last meeting, but on account of the unexpected date of the sitting of this Commision the meeting was cancelled. We will have that meeting adjourned until next week and go on working with the idea of bringing in as soon as possible a report from the employing end. The employers include also all the sections of the building trades, which are represented here to-day by their President and Secretary, and it will be our effort to ally ourselves with the building trades and also with the Painters' Association, in order to have with their assistance a general report from all the employing industries of the city, so that at one glance you will be able to ascertain exactly what our view point is. The only necessity is to have sufficient time in order to bring it before these men who have not very much leisure time in the busy building season. As you are aware in committee matters it is only when a vital question comes before the committee that there is a continuance of attendance and attention, and now that the present matter has come before the employing and manufacturers' interests it can be assured that every reasonable despatch will be taken so that our report will be presented to your Lordship if possible before the first meeting of the legislature.

MR. WEGENAST: There is only one thing I have to add. Your Lordship made a suggestion the other day that data should be placed before the Commission as to the schemes of compensation at present in operation. It would be a work of considerable magnitude to gather this data. It would be necessary for me to send out circulars.

THE COMMISSIONER: Can you not count upon the fingers of your two hands the number of organizations that have such schemes?

MR. WEGENAST: No, I think not your Lordship. As Mr. Firstbrook has stated I think a very large proportion of the employers that our Association represents—some sixteen or eighteen hundred—have in operation schemes which depend

altogether, as I stated to your Lordship the other day, rather on custom than on any organization.

THE COMMISSIONER: I did not understand that Mr. Firstbrook spoke of any scheme. He spoke of generous treatment by the employers of their workmen.

MR. WEGENAST: Take the case that your Lordship instanced, of the Massey-Harris Company. I doubt whether the Massey-Harris Company can show a shred of writing as to its organization, although it is most effective and most satisfactory to the company and to the employees, and if any data of that sort is to be gotten it will require time.

MR. CORKILL (Inspector of Mines): I believe the views of the mining companies and the mining employees throughout the Province have not been presented to this Commission. While going around the Province during the last few weeks I have been approached by both the employees and the mine managers with the idea that an opportunity should be given for their views to be presented to this Commission, and I was requested to ask if a meeting could be held in say a couple of weeks to give them an opportunity of being present.

THE COMMISSIONER: Where?

MR. CORKILL: Well, it was asked by the employees most largely if a meeting could be held in Cobalt, or Cobalt and Sudbury. Those are centres where employees are gathered, and it would be much more convenient for the employees if the Commission could sit there. I presume that the mine owners themselves could come to Toronto. As I understand it there is only one organization of employees, and that is at Cobalt.

THE COMMISSIONER: Would it not be easier for the officers of those organizations to come down here than to take the Commission up there?

MR. CORKILL: I just gave that as a suggestion.

THE COMMISSIONER: I suppose there is no reason why the travelling expenses of these gentlemen should not be paid. They could be paid like a witness, I suppose.

MR. CORKILL: It is very difficult for the employees to get off a sufficient length of time, and also pay their expenses.

THE COMMISSIONER: Will there not be somebody to represent the body and speak for them?

MR. CORKILL: That would be in Cobalt. There they could have the President or Secretary of their Union speak for them, but in Sudbury and other mining camps they have no organization, and consequently there would be no member who could present the views of the miners. In the Sudbury camp probably sixty or seventy-five per cent. of the employees are foreigners. Fifty per cent. could not speak English, probably.

MR. BANCROFT: I might say that at the Dominion Trade Congress at Calgary some few weeks ago, there was a resolution passed. There were 163 delegates present representing 57,000 paying members, and indirectly 150,000 members on this continent, or in the Dominion of Canada rather, and the resolution was this, that the Ontario Executive Committee immediately get in touch with the Commission organized for the purpose of considering workmen's compensation in Ontario, and ask that there should be no unnecessary delay, and why there had been delay, if any; so you see it is impossible for us to consent, or even to think that any delay is necessary. I think your Lordship's observations were quite correct. Everybody knew when the Commission was appointed that evidence was needed, and that conclusions would be drawn from the evidence which was given largely by the Commission. Since that time I believe organized labor has undertaken to collect all

the evidence that they possibly need, and to present it when you wished it in a proper manner so that you should understand what we want. I am not so sure but that the manufacturers have done the same, from observations which we have had, and I believe from what has been written in their organization. I think Mr. Wegenast went to New York and he heard the report of the representative who had travelled all over Europe, and I understand that was for the purpose of gaining information on the subject. The manufacturers have had their convention, and they had representatives from all over the Province of Ontario. They had a lecturer there who was to give them all the statistics possible from his experience in going all over Europe. And now when the Commission meets a request is made that delay is absolutely necessary for them to state what their members want. They say for eleven years or so this matter has been held up, and that we have only had the old Employers' Liability Act, and so on. That is true; and in that eleven years who knows how many have suffered, and have been injured and maimed and crippled in the industry who have gone without any compensation, and the mothers and children that have been thrown upon the world without any resources. From that standpoint we don't believe in any delay. We don't believe there is any reason whatever for delay at the present time, and we do hope you will report to the next session of the legislative House in Ontario. As far as the workers are concerned we are here, I think, to speak for the workers from the Toronto Central Body, and we hardly hesitate to say there that the views which we will express will be coincided in by organized labour generally. In the Dominion Trade Congress there is probably every kind of workman represented, including miners, and from the discussions from year to year of one kind and another we know, I think, what labour wants in the way of compensation. It has been said this morning that the delay was necessary in order to consult all the members of the Manufacturers' Association. However, it seems to me from the unanimity of opinion this morning for delay there must have been some consultation, and some reason for the delay. If the Workmen's Compensation Act is to be modelled upon the British Act, as I believe organized labour wants it, I do not see any reason for any unnecessary delay in the matter. It is plain. With regard to extinguishing employers by workmen's compensation such as is in existence in Great Britain, I don't believe that any evidence has ever been produced in Great Britain in the last five years, or in Germany since compensation and social insurance was in existence, that gives anybody any reason to make any such statement anywhere at any time. An employer who does not insure himself when the law calls for it against risks to his employees, is like the employer who refuses to take out fire insurance, and then blames his loss on the carelessness of somebody else. After all it is a tax upon industry. In the last analysis, there is no doubt about it, but what the consumer will pay for it. The employers of the Old Country are not individually liable only so far as they insure against all risks and hazards of industry in an insurance company. They talk about insolvency, but it is strange to say that it is the employers who are the ones that wish to protect the workmen against the insolvent employer. The workmen of Great Britain have not found it difficult to deal with that question, and the insolvency part of the workmen's compensation is covered by the British Act and is entirely up to date to the satisfaction of the workingmen.

It has been said that men have gone all over Europe and investigated these conditions for themselves, and they have observed apart from reading reports. I might say that from time to time we have members of organized labour in Europe. Men who are leading men in organized labour both in Great Britain and on the continent, come to this country and we understand and know exactly what they are

doing. It is not exactly from reports, it is from actual contact with industry in every part of the world, and we have men in Canada who go over there. Now, I hope that your Lordship will direct a certain time when both parties will be ready. A complaint has been made—I don't know whether it is a complaint, but a suggestion—that labour should consult with the manufacturers. I wish that the manufacturers on all things were as ready to consult with organized labour as they are on workmen's compensation. We do not feel altogether that our case has got to be made out before the Manufacturers' Association. I believe that the case of workmen's compensation has got to be made out before this Commission and to the Ontario Government; and from that standpoint we feel that we have truth and justice on our side as far as workmen's compensation is concerned, and are ready to meet before this Commission at any time any objection to our position, and to meet the objections taken by other parties. The individual case cited by a manufacturer where an employer took care of a widow and children until they became of certain years, and so on—I only wish that was true in a larger sense. If there is that feeling amongst the manufacturers that that is a good thing they should have no objection whatever to the British Workmen's Compensation Act—none whatever—but I am afraid that is an exception rather than the general rule. In fact I know from personal experience it is so. I do not see that we have any reason to make argument this morning on workmen's compensation, but only to raise objection to any delay. When you desire at any time information as to the position of labour on this question we will be ready and willing to give it to you. I believe, however, that it may be possible for our information to be drawn up in such a manner that it could be given almost without explanation and so that you could understand thoroughly what labour desires. I believe we could do that, and I believe it would not take us very long either. So I say that we object to any delay whatever. We are prepared to give evidence at any time. If the scope is for the Province of Ontario, why, we will endeavour to do that. In fact I believe we can get the Dominion Trade Congress represented here to give evidence before you. Why, the Royal Commission on Technical Education would not go to a city and ask for evidence and because somebody would say they were not prepared put if off for three months. The Royal Commission would not dream of that. The Royal Commission tell people to be prepared to give their evidence. This Commission has been appointed, I believe, for one or two years. We were the ones that asked for it. I do not see any reason for delay in the matter whatever. The delay, of course, is more beneficial to the manufacturer than to the employee, because delay for years has meant cripples in industry who have never got anything because of the legislation. I am not so sure that the sentiments that are expressed before Commissions are always the sentiments that guide employing interests of any country when dealing with practical cases of compensation. So, your Lordship, I suggest that you name a time yourself and tell the parties to be ready, and that we give the evidence when you ask for it.

THE COMMISSIONER: When will those you represent be ready, Mr. Bancroft.

MR. BANCROFT: Well, I don't see that we need more than a week or two. A week or two notice to us will be enough.

THE COMMISSIONER: I suppose you would prefer an evening meeting?

MR. BANCROFT: It would be better.

THE COMMISSIONER: If you will say about the time we will let you know.

I would like to ask if anyone is here representing the agricultural interests. Notice was sent to the gentlemen who were supposed to represent those interests

because that is within the scope of the British Act. I think it would be well to notify them.

MR. BANCROFT: I would like to draw your attention to one point which we would like borne in mind. In the British Columbia legislation on workmen's compensation there has been an interpretation made, I believe, by a judge of the court in that province, whereby if a man is killed in British Columbia and his wife and children happen to be living in Saskatchewan his dependants would get no compensation. I hope, your Lordship, for the benefit of all concerned that nothing of that nature will be allowed to creep into any Workmen's Compensation Act in Ontario.

THE COMMISSIONER: There is something like that in the Manitoba Act?

MR. BANCROFT: Yes, and it is a mistake. It is so much of a mistake that the Dominion Trade Congress intend to fight that case to the Privy Council, where it now is.

THE COMMISSIONER: Unless there is something in the Act specially providing otherwise it was so held.

MR. BANCROFT: It was never before the Privy Council, but it is going there.

THE COMMISSIONER: Mr. Justice Darling decided that the Fatal Accident Act was not applicable to a foreigner, and that was over-ruled.

MR. GEO. GANDER: Speaking for the building trade, your Lordship, I generally coincide with Mr. Merrick's words, that we would like a little time, and I believe we will come before you with a more decided and general view that will be perfectly agreeable on certain points, and I think myself that will almost occur on both sides of the house. The reason I express the view that way is at the last meeting there was quite a difference of opinion as far as the labour people themselves ——.

MR. BANCROFT: The gentleman, as far as we know, who gave his views was an individual. The labour people were being represented.

MR. GANDER: I only mention this to show there must be a large diversity of opinion, for you see I have run against a snag already. We may have different opinions in the building trades, but we feel by meeting, in a very short time we could come before you with an opinion that we would not differ on. We would not wish to state that such a thing might occur to the extent of ten per cent., and another individual turn around and say it might occur to the extent of thirty per cent. I believe we could get these opinions pretty well formulated and in a better state in a little time.

MR. GIBBONS: As this meeting seems to be called for the purpose of asking for delay and the employing classes seem to be united in wanting delay, yet we cannot see what can be gained by delay. As has been pointed out by my colleague, the manufacturers had a convention, and they have been gathering statistics from the United States, and they have had all the acts of the various provinces before them. Now, probably we come here in a different way to what they do. We come here with the purpose of giving evidence to the Commission formulating the act. We do not suppose that we are coming here to lay down an act clause by clause that will be submitted to the Government. I do not think the Commission expects that. They want us to give what information we have and our opinions, and I do not see anything to prevent them from doing that. If we were to ask for time to go and consult every individual we would not be able to give you evidence for the next two years. Therefore, I do not see anything to be gained by delay. The last gentleman mentioned, an employee or a worker, who came here last time, and I would say that that gentleman came here on his

own initiative, and no matter what scheme was put up he was here to oppose it. We know where the opposition came from, and therefore that is no excuse for delay. I do not think the Commissioner expects the employers or the employees to lay down a hard and fast Act. I think what the Commission wants is evidence, and they will formulate, or the Government will formulate, an act on that evidence; and we are prepared to go ahead any time.

Mr. J. W. Doggett: I would certainly like, your Lordship, to pass my opinion against this delay. I might state that since the last meeting of the Commission there have been accidents in the building trades of the city, even since last Monday. I am just saying this to show that delay is pretty costly to the labour interests in those cases, and I think myself that all possible aid and every effort should be made to bring a Workmen's Compensation Act into the Province of Ontario, and put upon the statute books of the Province of Ontario, whereby the workers will be getting compensated instead of looking for charity, such as a case that came to my notice this week, where a man was laid up for seventeen weeks in St. Michael's hospital who met with an accident, and his wife and children were going to the House of Industry asking for bread. That man met with an accident in the course of his occupation, and that is one reason for our protest against any delay in giving evidence.

The Commissioner: You might give the Secretary the name and address of that man.

Mr. Bancroft: We would hope that you would direct a time when the manufacturers' representatives shall be ready to give evidence, as well as ourselves, because if you remember we intimated we would like both to be here at the same time.

The Commissioner: That possibly may be impracticable. We cannot force them to come together unless they choose.

I do not see any reason to change the view I expressed during the course of the discussion. I must have this inquiry completed so that I shall be in a position to report to the House at its next session. I recognize the reasonableness of the request that there should be no undue haste, and that an opportunity should be afforded to everybody interested to present his views before the Commission concludes its labours, but it would be out of the question, I think, as I have already stated, to allow any delay which would prevent the Commission reporting during the next session. The Commission was issued sixteen months ago, within a few days, and public notice was given of it, and the matter was discussed before the Commission was issued, so that the manufacturers were well aware that this subject was one that would engage the attention of the Commission, possibly at an earlier date, it might have been expected, than the date when the Commission was able to meet, and during all this time I cannot imagine that the manufacturers have been lying on their oars and not gaining information and formulating views with regard to the question.

I think it is probable that I shall go to some of the other cities. I shall make some further inquiries before deciding that, however. It would perhaps look invidious to take only views here in Toronto. I may possibly go to other large centres of trade and business throughout the Province, and I may go, as the Inspector has asked, to the Cobalt and Sudbury districts, if that is thought to be the most convenient way of getting the views of the mining industries. Then in the meantime I will hold meetings and I will hear the Trades and Labour Council, or any individuals who desire to be heard. Possibly there may be some evidence

taken. In the meantime the manufacturers and building trades can be getting ready with whatever they are proposing to submit; but they must understand that however much I may desire to have the benefit of their inquiry and opinion upon the question, that anything they have to offer must be in time to enable me to make the report at the next session.

Then, Mr. Bancroft, if you and Mr. Gibbons and Mr. Doggett will find out what time will be most convenient for those you represent to be here I will arrange the date, and in addition to any written statement I would like to make some inquiries of those who may attend, and of course it will be open to anybody else to be present. Mr. Wegenast possibly may be here as representing the manufacturers if he chooses to hear and take part in the discussion.

MR. DOGGETT: I have now the name of the man I referred to. His name is W. Barnett, living in the rear of 61 Oak Street, Toronto. He met with the accident while working for the National Iron Works, Toronto.

THE COMMISSIONER: Would it not be a good idea to have one of the factory inspectors here when we are discussing these questions?

MR. BANCROFT: I think it would.

THE COMMISSIONER: Mr. Kennin can notify them.

THIRD SITTING

COBALT MINERS.

HELD AT THE TOWN OF COBALT, ONTARIO.

Thursday, 14th December, 1911, 2 *p.m.*

PRESENT: SIR WILLIAM R. MEREDITH, *Commissioner.*
MR. W. B. WILKINSON, *Law Clerk.*

THE COMMISSIONER: I have been commissioned by His Honour the Lieutenant-Governor of Ontario to make inquiry into the subject of workmen's compensation with a view to recommending to the legislature a measure which will be satisfactory to conditions in this country. My duty has been to collect information as to the laws that obtain in other countries; and I am taking advantage of meeting the people who are interested, both employers and employees, in order to get their views, so that I may have before me when I come to make a recommendation to His Honour all the views bearing upon this most important subject.

Mr. Corkill was at one of the earlier meetings which took place in Toronto, and he suggested that in view of the very large number of persons who were interested, both as employers and employees, in the mining industry, one of the most important industries of the Province, it would be desirable to hold a meeting here, and I am, therefore, here to hear the views of those who desire to express their views to me. I am anxious to hear not only from the organizations, both of the mine foremen and the workmen, but also from any individual who thinks he has

anything to say that will be useful for the purpose of assisting in the work which I have been called upon to do. I shall be glad now to hear anybody who desires to present any views.

MR. WARE: I represent the four Miners' Unions, the Western Federation of Miners' Union at Porcupine, Elk Lake, Cobalt and Silver Centre. As the matter has only just been brought to my attention, and I have only been instructed within the last two hours, I will give you the information, or the opinions which have been expressed, with regard to the subject from these bodies. In the first place the Unions and the members which I represent consider that the Workmen's Compensation Act in Ontario is very much too narrow, and that according to their ideas it should in its working, as amended, embrace all kinds of accidents arising from any cause whatsoever. That is to say not only those which are accidental accidents, but those which arise from defective machinery and plant and the defective systems of working, but also from the negligence of fellow employees, and from accidental accidents, if I may use the term, pure accidents, which result in injury to any of the employees. It is also considered advisable in connection with the administration of this Act to have a system of State Insurance in which the employers only should be asked to contribute to the premiums, and supply the needed funds to a large extent, in conjunction with the State, for the compensation of accidents and injuries which occur. The matter has been gone into very carefully with the different councils representing these organizations, and they have drafted out an epitome of what they considered advisable in the amendment of the law on the subject. They have prepared and signed a brief of the suggestions which, with your Lordship's permission, I will hand in to you.

THE COMMISSIONER: That is the same that has come from Toronto?

MR. WARE: Yes.

THE COMMISSIONER: Perhaps you had better read it so that the mine owners can hear it?

MR. WARE: It is addressed to Sir William Meredith, Commissioner of the Provincial Government, *re* Workmen's Compensation Legislation.

"Sir,—

"Understanding that it is the desire of the Commission to make recommendations for a Workmen's Compensation Act in harmony with modern industrial conditions, we have the honour to submit herewith recommendations for a Workmen's Compensation Act for the Province of Ontario.

"These recommendations have been discussed and unanimously agreed to, by representatives of the Dominion Trades and Labour Congress, Toronto Central Labour Council, the Building Trades Council of Toronto, and the Metal Trades Council, whose signatures are appended hereto.

"We also understand that it is the expressed desire of the Commission to report to the next session of His Majesty's Provincial Legislature the conclusions and recommendations for legislation of this Commission, on this subject. We, therefore, have lost no time in taking the matter up, to suit the convenience of the Commission.

"We propose to give plainly, therefore, the fundamental principles which we believe should be the basis for construction of a new Workmen's Compensation Act in this Province.

"It is unnecessary to refer to the present legislation in Ontario. Its uselessness has been pointed out for years by representatives of labour, its obsoleteness indeed, preventing almost anyone from even an attempt to defend it.

"The ancient character of the present legislation may make it seem to many that a new Act in harmony with modern conditions, with modern legislation in countries that have made serious attempts to solve the question, is in the nature of radical legislation, but that is merely because the matter has been so long neglected in Ontario. We propose that the new act shall cover:—

"1. All employments, the employees of the Province, Municipality, County, or other administrative bodies in the Province to be covered the same as employees in industries.

"2. Compensation for all injuries arising out of, and in the course of employment.

"3. Compensation for being disabled, or other injuries arising out of, or as the result of a specified occupation, the said disablement and injuries being in the nature of occupational diseases.

"4. Entire cost of compensation to rest upon employer.

"5. In the case of injury resulting in death, the defendants as outlined in the British Act, and State of Washington Act, shall be the beneficiaries, with the expenses of the funeral as outlined also.

"6. The doctrine of negligence on the part of employees or employer, fellow servant or otherwise, shall have no place in the new legislation.

"7. State insurance in connection with Compensation Act.

"8. The creation of a provincial Department of Insurance with three Commissioners, for the purpose of administration of the act.

"9. Compulsory insurance of employees in the State department, by a yearly tax levied upon the industry or occupation, covering the risk of the particular industry or occupation.

"10. The tax shall be upon the yearly wage roll.

"11. No employer shall attempt to pay the tax by deduction of wages of employees, by agreement or otherwise, such action to be regarded as a gross misdemeanour, as provided for in the State of Washington legislation.

"12. The schedules of payment under the act to be based upon the payments under the British Act, with the proportional increases due to the difference in the wages in Ontario, reflecting the difference in the cost of living.

"13. The Provincial Government shall provide revenue for the creation of the department of insurance.

The following will give you some idea of the weight of opinion in favour of the burden being borne by the employer or industry alone:

Great Britain. The employers alone bear the burden, and they insure voluntarily in state, mutual, or private stock companies.

Norway. Employers bear the burden and State insurance is compulsory.

Sweden. Employers bear the burden and insure as in Great Britain.

Holland. Employers bear the burden by compulsory insurance in State, mutual or private organizations.

Denmark. Employers bear the burden and insure as in Great Britain, but insurance is compulsory.

Belgium. Employers bear the burden by voluntary insurance as in Great Britain.

France. Employers bear the burden by voluntary insurance as in Great Britain.

Italy. Employers bear the cost by compulsory insurance, but insure in State, mutual or otherwise, as in Great Britain.

Germany. Employers bear the cost of workmen's compensation. Insurance is compulsory in State, mutual trade associations and State Executive Boards.

Wage earners covered by such compensation:

Great Britain	13,000,000
Norway	400,000
Sweden	1,000,000
Holland	1,000,000
Belgium	2,100,000
France	9,500,000
Italy	10,000,000
Germany	15,000,000
Total	52,000,000

Fifty-two million workers covered by compensation legislation in which the whole burden is on the employer or industry.

There are those who confuse the contributory schemes of sick insurance, invalidity and old age, with compensation legislation, but this Commission is not dealing with social insurance, only so far as it affects compensation for accidents, fatal or otherwise, arising out of or in the course of employment, and we therefore deal with it as such.

The doctrine of contributory negligence was the always fruitful source of litigation, and as the position, "That the worker would injure himself to obtain compensation" has become untenable, as well as the fact that if a workman takes risks, it is generally because in the nature of his employment conditions make him do so. This doctrine has almost wholly passed away. It exists mostly in old legislation on the matter.

The tendency of thought in Europe as well as North America is towards compulsory State insurance.

The British Act, an admirable one, is found to be in need of improvement in this direction, as the British Trades Congress, the mouthpiece of organized labour, is seeking to have established compulsory State insurance in connection with the act.

The Manitoba Act, modelled upon the British legislation, is found to be wanting improvement in this direction also, as the Central Labour Council in Winnipeg has expressed itself a short time ago as intending to seek compulsory State insurance in connection with the legislation.

The splendid legislation of the State of Washington recently placed in operation with a State Department of Insurance, and a declaration of police power, is worthy of your most serious attention, from which we quote the following:

"The common law system of governing the remedy of workmen against employers for injuries received in hazardous work is inconsistent with modern industrial conditions. In practice it proves to be economically unwise and unfair.

"Its administration has produced the result that little of the cost to the employer has reached the workman and that little only at large expense to the public.

"The remedy of the workman has been uncertain, slow and inadequate.

"Injuries in such works, formerly occasional, have become frequent and inevitable.

"The welfare of the State depends upon the industries and even more upon the welfare of its wage workers.

"The State of Washington, therefore, exercising herein its police and sovereign power, declares that all phases of the premises are withdrawn from private controversy, and sure and certain relief for workmen, injured in extra hazardous work and their families and dependants, is hereby provided, regardless of questions of fault, and to the exclusion of every other remedy, proceeding or compensation, except as otherwise provided in this act; and to that end all civil actions and civil causes of actions for such personal injury and all jurisdiction of the courts of the State over such cases are hereby abolished except as in this act provided."

Surely, Sir, this must commend itself as a guide for administration of compensation, without litigation, such as any one having at heart the welfare of the workers might follow.

Perhaps the best feature of the Washington legislation is the fact that it makes for the prevention of accidents, which we regard as more important than compensation. The taxing of industries according to their respective risks, is an incentive to the employers to reduce the risks, which means a reduction of the yearly premium.

It is only by making risks expensive in industry to employers that we can hope to reduce them to a minimum.

Contracting out clauses, sub-contractors' liability, all the aggravating questions of controversy and litigation, could be obviated by provincial compulsory insurance, with a department of administration, in connection with which the Provincial Health Department could, on investigation among the workers of Ontario, tabulate what are occupational diseases in our own Province.

We believe that an act modelled upon the British Act in principle, with the Compulsory State Insurance of the Washington Act, with its police administration, and tax upon industry, as a preventive for accidents, would be the best for the workers as well as for the employers.

With regard to the sums of compensation in the schedules, we will be willing, if you decide on the British Act altogether, to work out the payments for Ontario, taking into consideration the different financial proportions of wages and cost of living.

We would say, however, that if you follow the British Act completely it should cover all workers in Ontario getting less than $2,000 a year.

If on the other hand you should favour the act of the State of Washington we will endeavour to prove to you that some of the payments made by the month are too low.

Anything less than either of these two acts will be inadequate to meet the needs of the workers of Ontario, and as this Province is the manufacturing centre of our Dominion, we claim that the legislation that should be adopted and which we desire is that pointed out by the fundamental principles we have laid down for your consideration.

Any further evidence you may need we will be only too pleased to procure, and we ask you to request our co-operation for this purpose at any time.

THE COMMISSIONER: Do you understand exactly what they mean? As I understand it they mean that the individual employer shall be answerable for all accidents happening whether they happen through the fault of the employee or not, if they arise out of and in the course of his employment, and instead of insuring with accident insurance companies they effect insurance with the State against that individual liability. That differs widely from the Washington scheme. The

Washington scheme does not involve any individual liability by the employer at all. There is a graduated tax which is based upon the risk pertaining to the different industries that are mentioned, and when the employer contributes that he satisfies all that he is called upon to do.

MR. WARE: That appears to be so.

THE COMMISSIONER: Their proposition is a composite one, part State of Washington and part British Act.

MR. WARE: Yes, I noticed that apparent discrepancy in discussing it. The object of the insurance, as I understand it, is to provide a fund which is always certain and always available for the purpose of satisfying the damages.

THE COMMISSIONER: That would not be their scheme as I understand this. Say John Smith is an employer of labour. He is bound to insure all his men with the State Insurance Department. Then when an accident happens that fund, whatever his insurance is, provides for the injured employee or his dependants, as the case may be. I would like if you would find that out. Perhaps I can ascertain it nearer home, from Mr. Bancroft who is the leading man in Toronto dealing with the subject on behalf of the labour men. If there is to be a tax have you any suggestion to make as to how that tax should be collected? Are you going to make the Government a tax collector to collect from every employer of labour, the man who employs a large number and the man who employs from one to five men?

MR. WARE: According to the suggestion there the taxes are to be levied on the yearly pay roll.

THE COMMISSIONER: Who is to collect it?

MR. WARE: There is no suggestion as to that. This is a matter to be worked out in the machinery of the Act. The Government would naturally be the best party to collect it.

THE COMMISSIONER: I should think the result of that would be to turn out any existing Government, if they started to collect taxes from everybody employing one, two or three men. It would be lucky if it comes immediately after an election.

MR. WARE: If your Lordship would care to hear some of the individual men they might have some ideas.

MR. BOTLY: I represent Local 145, Miners' Union. Referring to this question of who shall collect the taxes it is an undoubted fact that the Government, so far as we have seen, has no difficulty whatsoever in collecting taxes for other purposes than for the cause of labor, and I think if there should be experienced any difficulty by the officials of the Government, either of Ontario or Canada, in collecting taxes for the purpose of benefiting the cause of labour. I think the cause thereof lies not so much on the face of it in their inability to raise that tax, as their unfamiliarity with the cause for which that taxation is to be levied. Now, this perhaps one of the first actual labour reforms that has been instituted in this country. I agree with Mr. Commissioner that it is perhaps one of the most important pieces of legislation that was ever proposed in the Province of Ontario. We regard it, speaking as a Union, as the thin end of the wedge, and I have no hesitation right here in saying that we intend to demand, to ask, for all we think that we can possibly get. We consider that we have been labouring for years in this country under an injustice in that we have been compelled to work for our masters on whatever terms they chose to dictate, in the majority of cases, and then when we were injured we had to have recourse to the courts in which courts we have no representation whatsoever. Now, with regard to this proposition as to how we are to levy the taxes, I believe there is a system or a law on the statute books of the British Isles which compels, in the event of a receipt being given for over the

sum of $10 or two pounds, that a stamp be placed upon the receipt, and the receipt is not legal without that stamp is thereon placed, and I think therefore we might find a very reasonable way in which to collect this tax, by instituting a system of stamping the pay roll. That is, stamping the pay receipts of each employer with a stamp of a certain valuation. I think that would be a very equitable way of collecting his tax. In the event of any employer asking a receipt from an employee for his wages without placing that stamp thereon you could make the receipt invalid, and the employee could come back for the full amount of back wages.

THE COMMISSIONER: A workman is injured, and it is manifest to his Union that he is injured owing to his own gross carelessness and disobedience of rules. Is it just that he should be in as good a position as the man who does not violate rules or is not grossly careless?

MR. BOTLY: I submit to you in this form of production that we now have it is presumed that the employer of labour, by virtue of the fact that he is an employer of labour, therefore controls that industry. He does not hesitate to say that he has the right to control the revenue from that industry, and that being the case he certainly should accept the full responsibility for the way in which that industry is carried on. Incidentally also he should accept the full responsibility for the class of employees that he employs, and if he chooses to employ such employees as are not suitable for the craft or occupation they follow I maintain, and I think the rank and file of the membership is behind me, that the employer and he alone is responsible.

THE COMMISSIONER: Take an individual man. He may be the most skilful man in the mine, but he deliberately goes to work under dangerous conditions and invites Providence to strike him. How should that man be compensated? Should he be compensated in the same way as the man who takes reasonable care?

MR. BOTLY: I come from a mining camp which, in my opinion, is the most dangerous mining camp in New Ontario, and we have Government appointed mines inspectors. On the train on which I came down there was a man came down in a coffin. How he died I don't know, but I do know there are instances where men are killed, and something should be done to prevent it. I know one personal friend of mine that got injured. He didn't say anything very much about it, but he was injured by falling rock, and I submit to you that if this legislation is passed and the State does institute a system of State Insurance, if the State thereby is compelled to pay that insurance. I think the State will do far more towards preventing accidents, both of death and any other nature, than they are doing at the present time.

THE COMMISSIONER: Well, one of the arguments against State insurance is that it does not provide any incentive to protect the lives and limbs of employees. A man goes on carelessly, and he is on the risk, he gets his compensation just the same, whether he is careless or not.

MR. BOTLY: There is machinery right in this Province for the inspection of mines, factories and mills, and I know of numerous cases where accidents occur, and those works have never been inspected as far as I know. We could get no information whatsoever. I think this, that if the State was responsible for the compensation to be paid that the State itself would attend to this question of the conditions under which the men work.

THE COMMISSIONER: Do you not think there is some duty owed by the man who labours to assist as a member of society in minimizing the cost and lessening the cost of production? Does he not owe some duty to society?

MR. BOTLY: I do not quite follow that. If it is a fact that it is the duty of

the labouring man to lessen the cost of production it is, therefore, the duty of the employer to increase the return to the labourer, and we do not find that being instituted here in any case. Every increase in wages we have obtained we have had to fight for, and to fight hard for. I maintain, on the other hand, that the interests of the laborer and the master are not identical, and are practically opposed in every direction.

Mr. Cohen: At the mine I represent, and other mines, I think, in Cobalt, we voluntarily have given employees a bonus on the earnings of the company. We have also provided for the insurance of the men. In reply to the statement made by the last speaker I may say this wasn't done on any demand; it was done voluntarily by the company who felt the men were entitled to a profit. The mine is not a Union mine. We have nothing against the Union, but we don't feel we have much in common with them. I just make that point in contradiction of Mr. Botly's statement.

Mr. Gauthier: In reference to the collection of that tax which is referred to, I think it could be very easily collected if the Government made up its mind to have it. I will give you an instance. When the mines were collecting fees for the hospital they collected it, and if the Government insists on having the employer collect that tax that can be collected. Now, the point I want to make is according to number 7 in that article, I think it is. I would be in favor of putting the cost eventually upon the employer solely. Now, that may sound queer, but still I have a few arguments to put up, and I think some of the employers will realize when I am through that they would benefit by it. Now, you are insuring your men to-day. Why? For the simple reason you do not want to pay the costs of the accidents which your men go through, and now the insurance company has got to do the fighting. I have been secretary of the Masters' Union for three years and a half, and I know a little about that business, and that is why I am stating these facts. The point is the insurance governs the amount paid for accidents to your employees. Now, if the employer paid the ratio of insurance to the provincial insurance company, which would be governed by the government, provided of course that the Government would have to provide a fund for a start, but I am of the opinion that if this was done the employer would see that his mine or his mill or his factory, or any other proposition of which he is the master, would be properly run. That ratio of insurance would be governed by the number of accidents or the cost of the accident, which means the less accidents the less cost, and the ratio would be lessened, and therefore I think the employer would benefit, and so would the employee. I will say something later if I am given the opportunity.

The Commissioner: What would you do if an inspector goes out and takes two men with him to work? How would you provide if his man is injured? How would you provide for raising money to pay for that? A couple of men go out together and they hire a couple of men to go with them, and one of the men is killed, it may be through carelessness or without the fault of anybody, but he is killed while the operation is going on. How would that case be provided for? Take the case of a prospector?

Mr. Gauthier: The prospector would have to insure his two men before he takes them with him.

The Commissioner: Would it not be pretty difficult to get all these little things in?

Mr. Gauthier: But he would have to insure the men before he goes with them.

THE COMMISSIONER: Well, take the employer himself? They are all about on the same plane. One happens to work for wages and the other works for what he gets. Supposing the prospector gets killed he gets nothing and his dependants are left without anything.

MR. GAUTHIER: In that case the prospector is not a working man. He is working for himself.

THE COMMISSIONER: That would not be much consolation to his family.

MR. GAUTHIER: Well, he is taking chances to get dollars.

THE COMMISSIONER: We are all taking chances for the matter of that.

MR. GAUTHIER: The majority of the workers to-day are making a fight for a living and they haven't got a chance to get the dollars. All they earn is a mere living. The majority of the workers are getting a mere existence. This camp is a prosperous camp. Why? Because the wages are high. It has been stated that in the cities there is more misery, but when there is more money in circulation, although the cost of living is high, still the living is better.

MR. G. W. MAHON: I represent the Timiskaming Mine Managers' Association. That is an Association consisting of twenty-one, or practically all the shipping mines in the Cobalt camp. In submitting their propositions to your Lordship I may make some admissions, or go even further than possibly the workmen think the mine managers would be prepared to do, or possibly what your Lordship would think they were willing to do. In the first place they are willing to admit that the employer, in so far as it relates to the mining industry, and that is all I am speaking in regard to—in so far as it relates to the mining industry the employer has a responsibility in respect to his employees, and even in the case of where an employee is guilty of contributory negligence they are willing to assume a certain responsibility and make certain compensation to the dependants of an employee who may be killed even by his own contributory negligence. The amount, however, would be very considerably smaller than it would be in the case of any other accident, that they would be willing to assume. The next point is that in regard to the mining industry,—which is different from any other industry in the manufacturing field,—it is generally conceded in the discussion on Workmen's Compensation Acts that any liberal act imposing heavy burdens to meet the damages that may result from accidents adds to the cost of production, and in manufacturing establishments particularly that added cost can be met by adding it to the cost of production and charging it up to the consumer, the general public. In the case of metal mining particularly the mine owners have absolutely no control over the price of its output. They control it in no way whatever, and if too heavy a burden is placed upon them by a Workmen's Compensation Act there would be the danger of them reimbursing themselves by a reduction in the wage. A high wage is paid to the mine workers by reason of the fact that it is a hazardous occupation, but if they are going to be obliged to pay a big wage because it is a hazardous occupation, and then compensate in every instance a heavy compensation, the tendency would be to reduce the wages of the mine workers, the employees, and hence a too liberal Workmen's Compensation Act might be a disadvantage rather than an advantage to the workmen in the metal mines. My next point would be that it would be advisable, if possible, in any Workmen's Compensation Act to have a separate provision for the mines, or at least a separate schedule, and keep it separate from other industries, so as to protect the employer, particularly if any provision is made for payment to employees or the dependants of employees who have been guilty of contributory negligence. The employers should be protected so that the employees will not grow careless, feeling that there will be compensation in any event. Then

there should be a very rigid inspection and frequent inspection of mines, and the work being carried on by the employees as well as by the employers, so that there would be certain inspection, and that that expense should be borne by the Government for that rigid inspection. I know in one mine in the camp at the present time, in addition to the fact that there is the daily inspection required by the act by the captain or shift boss, they have taken on another employee solely for the purpose of walking through the mine and inspecting the mine to see that no one is growing careless in his work and endangering their lives, and I submit there should be some such method adopted if there is to be any added burden of any moment placed upon the mining industry. There should be very frequent, in fact almost daily inspection of the mine.

Now the Association suggests if there is a revision of the Workmen's Compensation Act, such a revision should be based rather upon the New Zealand Act of 1908. That has been taken by reason of the fact, as is well known, that the New Zealand legislation is an advanced legislation, and it is suggested that that act should be taken as the basis for the amendment of the Workmen's Compensation Act. Certain modifications of course would have to be made in the schedule as to the compensation for various injuries, and it is suggested that instead of taking the New Zealand Act, that the schedule, which is very complete and very full, as set out in the Act of Russia, 1903, should be adopted, instead of the schedule as appended to the New Zealand Act. I have the schedules here. I do not know whether your Lordship has seen it.

THE COMMISSIONER: I have seen that book, yes.

MR. MAHON: It is set out very completely, and provides for every possible accident, and gives a rate of so much per cent. on total disability, or death, and it is suggested that such a schedule as that should be adopted in connection with the adoption of the New Zealand Act.

THE COMMISSIONER: I was told a short time ago of a very peculiar accident to a man, where gangrene set in after the injury and he lost both his legs. Would it be governed by the ultimate injury or by the primary injury?

MR. MAHON: I believe the New Zealand Act provides that if the parties agree upon the amount or scale of compensation—or it may be the Norwegian—that the settlement may be revised. I think it is every three years.

THE COMMISSIONER: A man might lose a finger, and that might be a simple thing, but it might result in serious consequences. Would each accident by which a finger is lost be compensated for just the same, no matter what the results are?

MR. MAHON: I would say if it eventually caused death it would come under the death compensation. Every three years there is a revision, and if during that time more serious results have resulted from the more trifling accident, then it would move up in the scale according to the schedule, and if within three years death resulted, I presume then the maximum would be paid.

Now, the mine managers suggest that during a period of total incapacity the weekly payment, if any, should not commence until after the expiration of seven days. That is the same, I think, as in the British Act, and also the New Zealand Act.

THE COMMISSIONER: The British Act as introduced, I think, was fourteen days, but that was struck out in the House, and there was no limit.

MR. MAHON: In New Zealand it is seven days, and in some other Acts.

THE COMMISSIONER: In some of the American Acts it is seven days, and no payment unless the disability continues for fourteen days.

MR. MAHON: Where death or total incapacity results from an accident his

total dependants should receive three times the actual average yearly earnings of the employee, and by total dependants as defined by the New Zealand Act, I mean those who have no other source of income whatever, but are dependent on the employees, but in no case should the sum to be payable under total disability be less than $1,000 or more than $2,600. That is based upon three times the average earnings of an employee in this camp.

THE COMMISSIONER: That would be going back upon our present legislation, which is three years or $1,500, whichever is the larger.

MR. MAHON: In no case should it be less than one thousand dollars, no matter what their yearly earnings should be.

THE COMMISSIONER: As it is now it never can be less than $1,500.

MR. MAHON: That is true, but the maximum would be $2,600, which would be practically three times the average yearly wage of a man in this camp. That meets the objection raised by one of the previous speakers, that the schedule would have to be revised from the British Act to suit the wages here. I have a statement here which shows in the twelve mines in the past year the average yearly wage was $869, and three times that would be approximately $2,600.

Then during the period in case of death and incapacity the weekly payment, if any, should commence to be paid not until a period of seven days, and then should be at the rate of 50 per cent. of his average weekly earnings.

THE COMMISSIONER: You would have his wages run on for those seven days?

MR. MAHON: Some companies pay that, but in no case should the total amount be under the weekly payment except the death and maximum, and in the case of death finally resulting the amount paid under these weekly payments should be deducted from the maximum amount he would receive. Then we say that the New Zealand Act should be altered in this respect. By section 10, I think it is, of the New Zealand Act very broad provisions are made for the payment of compensation in cases of disease. We say that should be eliminated as opening the door altogether too wide for fraud.

THE COMMISSIONER: You must have some provision for occupational disease. Take the tanners, for instance.

MR. MAHON: If it is strictly confined to occupational diseases there would not be the same serious objection to it, although even then it has been found, I understand from those who have had experience, there is a door opened pretty wide for fraud on the part of the employees, if they desire to take advantage of such. If it is confined very strictly to occupational diseases there would not be the same objection, but the New Zealand Act, it seems to me, to be very wide in that respect, and extends for a period of twelve months after the employee leaves the employer's employment, he is still responsible. There should be, I think, a limit placed upon that and confined very strictly to occupational diseases.

Then the provision in the New Zealand Act is entirely satisfactory to the mine managers upon the point raised by one of the previous speakers as to contractor and principal. They are jointly and severally liable, and the contractor shall indemnify the principal. The mine managers are willing to make this statement, that compensation according to the schedule shall be paid whether the employer shall prove negligence or not on the part of the employee. So long as the accident happens he can receive compensation according to the schedule which would be appended to the act. In the New Zealand Act it says no compensation shall be paid in the case of serious or wilful misconduct.

THE COMMISSIONER: The same as the British Act.

Mr. Mahon: In that case the Timiskaming mine managers say in case of his total incapacity, or in case of his death, they would be willing to submit to a payment to the dependants of a certain percentage of the regular schedule, say 15 per cent. of what he would otherwise receive, he or his dependants, in case of total incapacity. In the case of partial incapacity or temporary—

The Commissioner: I suppose that would mean where the injury was due wholly to the misconduct of the employee?

Mr. Mahon: Yes.

The Commissioner: As to contributory negligence it seems to be almost common ground that that must go.

Mr. Mahon: Yes, that is the idea.

Mr. Botly: In the event of an employer working in a mill, say a saw mill—

Mr. Mahon: I am only considering mines.

Mr. Botly: I am familiar with the milling industry, and that is why I said that. In the event of an employee seeing a notice placed up by an employer, we will say over an exposed shaft, to keep away from this shaft. Would it be considered wilful misconduct if the employee in the course of his employment went near that exposed shaft and got caught in it, or, on the other hand, would it be necessary before the employee would be guilty of misconduct to have a guard rail placed around it, or something placed over it? Would it be necessary for the employee to be tampering with the shaft itself?

Mr. Mahon: The Factories Act provides what shall be guarded and what shall not, and if the owner does not guard what should be guarded, it does not matter how many notices he puts up, he does not escape responsibility.

The Commissioner: This gentleman does not seem to see the force of the word "wilful." If a man was working around that shaft, and not thinking, got pretty near it and got hurt, that would not be wilful. Wilful means he knows what he is doing, intending to do what he does. But supposing the notice was up there, and the man deliberately and with his eyes open, knowing it was dangerous, and seeing it there, walked up and came too close, that probably would come under the definition of wilful misconduct, or wilful violation of the rule.

Mr. Gauthier: I would like to ask the counsel here if a man, for instance, scratches his hand, and we will concede that there are poisonous germs, which occurs very frequently in the camp here, and through this little scratch he gets blood poison and dies, would he get remuneration for that under the act.

Mr. Mahon: My instructions are that that clause in the New Zealand Act should be struck out.

The Commissioner: The case that Mr. Gauthier points out is covered by the present act, and he would be compensated for the injury. The present law would look after him in that case, as I understand it.

Mr. Mahon: Then as to the procedure for determining what particular heading of the schedule each individual accident would come under, it is suggested that if the parties cannot agree, with the schedule as full and complete as it is made in the Russian Act—if they cannot agree the matter should be adjudicated upon by the County judge, quite irrespective of the amount involved; and either party might on application to him ask for a date of hearing when all parties could be heard, and the hearing should be heard at the most suitable place near where the accident occurred.

Then as to all lump sums,—if they are not paid in weekly payments, all lump sums to be paid to parties in settlement, particularly to dependants, should be paid into court and apportioned by the County or District judge among the various

classes of the dependants, and there should be the right of appeal from the decision or any ruling of the County or District judge. There should be one right of appeal to the Divisional Court, and neither party to have any further right of appeal.

The last suggestion I have to make, and perhaps your Lordship can set me right as to whether it is in the power of the Provincial Legislature to include in the act that no employee should have the right of action at common law? There would be just one remedy.

THE COMMISIONER: That would be perfectly competent, to substitute it. It is there at present.

MR. MAHON: Then as to conditions that exist here, this is a report taken from the twelve mines for 22 months, from January 1st, 1910, to January 1st, 1911, and it sets forth the average number of men employed is 2,201: the average wage per year per man amounts to $869. The total wages for the 22 months was $3,263,788. The average premium rate paid to the liability companies now is 2.12.

THE COMMISSIONER: What is the gross amount?

MR. MAHON: The total amount for premiums for the 22 months was $69,-267.37, and during that time the liability companies have paid out in insurance $20,490, which includes some that are still pending.

THE COMMISSIONER: You include those as if they had been paid?

MR. MAHON: Yes. There are some still under adjustment, but we conclude that the full amount will be paid.

Under the schedule as outlined here, under the act, there would at the same time have been paid out of that sum for premiums of $69,000 odd, $40.341, or over double, or practically double the insurance that the liability companies have paid in compensation.

THE COMMISSIONER: Under your suggestion?

MR. MAHON: Yes, under our suggestion.

THE COMMISSIONER: What does that tax upon the industry amount to, that $69,000? Have you got anything to show what that percentage bears to the net profit of the mines?

MR. MAHON: No, I haven't. It is based upon the pay-roll. It is two decimal something. It is a little over 2 per cent. on the industry, assuming that every company would carry employers' liability policies.

THE COMMISSIONER: What is that percentage of?

MR. MAHON: Of the gross wage, the pay-roll.

THE COMMISSIONER: I wanted to know how much of a burden it is upon the industry?

MR. MAHON: That can be worked out, I think.

Then I have some figures here as to the accidents which have happened, and so on, during the same length of time. Incapacity for less than eight days, 84 cases; incapacity for more than seven days and less than fifteen days, 32 cases; incapacity for more than two weeks and not over four weeks, 28 cases: incapacity between four weeks and eight weeks, 9 cases: incapacity between eight weeks and 26 weeks, 6 cases; permanent and total disability, 2; permanent and partial disability, 3, etc. That is during the 22 months for those twelve mines. (Statement handed to the Commissioner.)

THE COMMISSIONER: Mr. Corkill was telling me about 48 altogether for the Province.

MR. MAHON: This is just the twelve mines of the Timiskaming Mine Managers' Association, returns of which we got.

As regards State Insurance I have no direct instructions, but so far as the Mine Managers' Association is concerned there is no doubt they would just as soon pay the same premiums into State insurance as they would into a private company.

I do not know that I have anything further to add.

THE COMMISSIONER: I do not suppose anybody has figured this out, but supposing there was a Department of State Insurance, what difference would there be in the cost to the State of managing the fund? It must make quite a difference.

MR. O'CONNELL: Some two months ago I read in the New York *Sun* an article giving the gross returns from all the employers' liability companies in the United States, and it showed the greater number of companies operating there. There is much more keen competition for business and the industries are very much larger, but it would give you some sort of idea of what the revenue and expenses were. If I remember correctly the gross premiums paid into these companies were $96,400,000. Of this amount only $41,000,000 were paid in settlement of claims, and lawyers' fees amounted to the huge sum of $11,000,000, and there were other costs which were very much larger, and the profits were something like $20,000,000 odd. That is just a portion of all the liability companies operating in the United States. In this country the matter would have to be worked out by insurance actuaries, whether the business could be carried on as a sound business proposition or not, or whether they would have to seek aid from the State or the Province. The mining industry, as you know, with the exception of coal and iron mining, is fluctuating and not stable. As you all know the longer you work a mine the nearer you come to the end. You can't eat your cake and have it. The camp of Cobalt has been operating now for the past seven years. During the year 1904 the operation was only prelimiary and very slight, but since that time it has assumed very much larger proportions than was once thought it would. It has been stated by people who are competent to judge that possibly in the year 1912 or the year 1913 the industry will reach the peak of production in this camp. That is a matter that only the final figures for those years will show. The industry is not on the wane yet, and operations here will continue for a number of years, but just how many I would not venture to guess, because it would be a mere guess. As regards the position of the employers and the employees, speaking only as the manager of the Trethewey mine which I represent, and as a member only of the Timiskaming Mine Managers, I beg to submit the following views. I think I speak without prejudice when I say the employers are as willing as the employees to have such legislation as the Province proposes to enact and to put in force. We are all human, and while there has been sometimes clashes between the mines and the employees, it has never lasted very long, and I might say now that the labour we have in this camp is as efficient, and perhaps more efficient, than any other part of the Province of Ontario. The hazards of the occupation, as our counsel stated, are great, but the wages are proportionately great. The lowest wage we pay, I believe, is around $2.25 a day. Some of the men work ten hours and some eight hours and some nine hours. I think there has been some statement made in the newspapers that the Government now in power propose to enact an eight hour day. Of course that is not before us now, and outside the question, but the proposition of the Government in selecting you, sir, to take testimony in regard to this thing we regard as a wise and beneficent thing. Personally we are paying, as stated by our counsel, the sum of $69,000 for premiums for 22 months to these insurance companies. Some of the companies do not carry any insurance, and while

they may make a little money by remitting this premium for a time we believe it is right, and while some of the employees who are bitter think we want to beat them out of their lives, we regard it as insurance on his own life for the benefit of his family. We regard it similarly to life insurance.

Now, when we made these statements through our counsel to-day, I may say we had them compiled at some considerable expense and time, and we are willing to submit the statements to you, and they are open to any criticism, and we can show where we got the figures. They were supplied by the separate mines as the average. There is no desire on the part of the operators of this district to hinder matters. On the contrary they fully desire to help and assist in every way they can to have a full and complete solution of this vexed problem, and I think I voice the sentiments of the other members of the Association when I make these statements.

THE COMMISSIONER: I suppose there would be no objection to your giving to Mr. Ware a copy of that.

MR. O'CONNELL: No. Further, your Lordship, we have statements showing all the causes of these accidents, and we can give you all that data.

THE COMMISSIONER: Do you think the feeling between the employer and the employee is what one gentleman speaking as a workingman has said, that it is practically eternal warfare?

MR. O'CONNELL: That is the socialistic side of the story. I have been a member of the Miners' Union. I started in the mine and worked just as all these other men are working, and I don't think so. Without prejudice to anybody here, because we are friendly to every man that works in this country, I think labour has divided itself into two camps. There is the socialistic and the non-socialistic. There are lots of good men working in this country who are not in the Miners' Union, and they are not represented here because they are all at their jobs. They are getting good pay and they are working. There are some of the men at our mine who are not members and they could have come if they wanted to, but they didn't come. It is the socialistic men who make those statements. The men here are good workmen, because they couldn't hold their jobs if they weren't. Every job stands on its own bottom here. The mine managers are not against the Union. We have only had one strike in this camp in seven years, and there is no feeling against them. The companies that Mr. Cohen and Mr. Rogers represent give their men a bonus. The Crown Reserve pays their men five per cent. of their salary, to every man that works for a year. That does not look like bitter warfare. The Coniagas pay their employees four per cent. There is no bitter warfare. There is no tendency of that kind on the part of the employers. I think all the men are fair, but we all do not think alike, and it is probably for the good of the world that we don't, or there wouldn't be much progress. Some of them are disgruntled, but taking it all through the camp I think that we have more satisfied workers in this camp than any other part of the Province of Ontario. That is a poor policy, and it does not exist to my mind.

MR. KINGSWELL: I mined for fifteen years in New Zealand, and I am thoroughly conversant with the Act there, and the only weak part of our act is the compensation for accidents. That is how they determine what a man should have Now, the Government there say that a mine manager shall have three years underground experience before they will issue to him his mine manager's certificate. Now, I suffered an accident in New Zealand; I had my leg smashed, and the Insurance Company that was in that mine fought me for two years, because they said if they paid me, every man in the mine, or who was connected with that mine, would have to be paid if there was any accident happened there. They fought me

because they did not wish to pay the other men. I was laid up fourteen months by my accident to that leg, by bad timbering, and that company fought me for two years, and they beat me because I hadn't the money to carry it through. It cost me several thousand dollars.

MR. O'CONNELL: That was some years ago. Wasn't that before the present act came in?

MR. KINGSWELL: That was the insurance company.

MR. O'CONNELL: It was before the Government insurance?

MR. KINGSWELL: Yes, it was the insurance company. That is the danger of that system. I am a practical miner myself, and the inspector in New Zealand had never been a mine manager, and he didn't know what a sill was. A sill is timbers put in to hold up the ground, and he didn't know what a sill was. Now, an inspector who does not know what a sill is should be put out of his place, and a practical man put in. The insurance companies will fight the men on every occasion, and that is the whole point. If you can take that New Zealand Act it is the grandest act in the world aside from that, and in my estimation I think the Government should take that question up and have thoroughly practical miners so as to be able to settle that question. I have seen a mine manager right in this camp who said that a hitch was in the hanging wall, and anybody knows if a man puts a hitch in a hanging wall he doesn't know anything about mining. If they have experienced men then the miner has a chance, but if he has to fight the insurance company, there you are.

MR. MAHON: I think Mr. Kingswell must be speaking before the time of the present act.

MR. KINGSWELL: Yes, that is twelve years ago.

MR. MAHON: Any dispute that arises under the New Zealand Act now is referred to a court of arbitration, which prevents any long litigation, and our proposition is to submit it to the District judge who will investigate, and the judge will come up to the place of the accident, rather than a whole lot of witnesses coming to the judge, and then only one appeal to the Divisional Court, which as your Lordship knows, is comparatively inexpensive.

MR. O'CONNELL: Further in reply to Mr. Kingswell's statement the proposition of the operators here is to have the Russian schedule which provides for just such a case.

MR. BOTLY: He says there is no bitter warfare between the employer and the employee in this country. Of course we are not here to discuss socialism. We are here to discuss workmen's compensation to the working class, and that being the case I do not think it is quite relevant, but, at the same time, I consider myself justified in making a few remarks upon the question. He makes the statement that there has been only one strike in this camp in seven years.

MR. O'CONNELL: One real strike.

MR. BOTLY: And he advanced the theory that the employers and the employees are like the lion and the lamb, the lion lying down with the young sheep. That is a delusion. Now, I maintain where you have had a strike in seven years, especially where there is a strike like that, it is a concrete instance to show that the employer and the employee are not on friendly terms, and I am not ashamed to say that I am not friendly with the employers.

MR. O'CONNELL: Do you work? What mine do you work at?

MR. BOTLY: I have never worked in this Cobalt camp.

MR. O'CONNELL: Sure you haven't?

MR. BOTLY: As far as my work here is concerned, I want to inform my friends I worked in the Cobalt camp up till 1903, and I quit working in the Cobalt

camp when the strike came up. I am not like a whole lot more. I can't be bulldosed into taking a job under conditions where they are not favourable.

THE COMMISSIONER: Perhaps Mr. Maguire has something to say?

MR. J. P. MAGUIRE: While I quite understand we are not here to debate the class struggle, yet I wish to call attention to this significant fact, that when we are in a position to debate on those subjects our friends are conspicuous by their absence, and I may say I am quite willing to meet anyone if they wish to participate in such a debate. But coming to the question, I object as a workingman, and as a man who has worked in the Cobalt camp until I was blacklisted and can't work any longer, and you can take that home—as a workingman I object to those provisos in regard to negligence on the part of workingmen, not as a question of the justice or injustice of it, because I must confess that the lines of justice and injustice are very largely lost in our complicated modern system, but for this reason that these provisos as to the negligence on the part of the employer or employee leave the possibility of a law suit, and when we get into law we always know who comes out best. We know the man with the money and the man with the influence comes out on top, and we know the District judge who is supposed to settle this is invariably not a member of the working class, but a member of the wealthy class himself, and the consequence is—

THE COMMISSIONER: He is the hardest worker of the lot,-the judge is: he works all the time.

MR. MAGUIRE: Well, your Lordship, you work under a different environment than we do and consequently you see things from a different standpoint. I may say further that our Conservative politicians have gone forth and told the people—and I read their speeches with much interest—that they would introduce a Workmen's Compensation Act without provisos, which would allow a man to be compensated for injuries. Now, your Lordship, I wish to impress this point very deeply upon you, that while I am afraid that politicians after election can change their complexions as well as their shoes, still I think your Lordship will assist those politicians to keep to their promises, and see that they introduce an Act that will be of real benefit to the working people, because I hold most emphatically that any act that permits of litigation or legal entanglements between those two classes is not beneficial to the working class.

THE COMMISSIONER: One of the great difficulties, Mr. Maguire, that has been felt all over is in determining how far claims are honest; whether the man is really as bad as he represents himself to be. In England now they have somewhat solved that because the judge—they have no jury in England at all—the judge may call upon a medical officer to examine a man and he may act upon that medical man's advice.

MR. MAGUIRE: Is his decision final?

THE COMMISSIONER: If the judge chooses to adopt it. He may adopt it against the evidence of the man.

MR. MAGUIRE: He takes that information, and he gives his decision?

THE COMMISSIONER: He appoints an impartial man.

There have been one or two remarks made here on each side that I think are not very desirable to remain unchallenged, or to have such an impression abroad, that because a judge is not of the labouring class therefore the labouring man will not get justice when he comes before the court. That is a libel upon the administration of justice in this country. It has never been so. I venture to say that as a whole the sympathies, as far as a judge is permitted to have sympathies, have been with the working man, and where they have had to determine against him in

hard cases it is because they have been compelled by the law to do so. You might just as well say that a tribunal, because it had not an employer of labour upon it, was not a fair tribunal.

MR. O'CONNELL: As an instance of that I might say at the mine where I am now manager, sometime during the spring there was a man, a Frenchman named LePage, was employed to do some painting at the mine, and we had never been able to determine whether he had received instructions plainly or not. At any rate the man was a man of very good intelligence and a man that was paid $3 at his trade, and he was represented to be a good workman. He was told to paint the outside trimmer of the transformer house of the Trethewey mine, and he finished first of all the trimmings of the windows and doors, and then he was where the high tension comes in to transform the current from 15,000 volts down to 150 volts, which is the voltage that the motors use. He got up there and he painted everything within ten inches, and his foot slipped on something and he fell on the dead lines which were going in and the other three phaze line was charged with 15,000 volts, and he was all but off when his hand struck the 15,000 volt line, and immediately the current hit him. It doubled him up and he went right over on the 15,000 volt line, and one of the other workmen came up to push him off with a dry board, and his feet were dry, but one of the heads of the department fearing he would be killed, too, told him not to do it. Well, it has been a mooted question since about that. Electrical men say if they had pushed him off he probably would have recovered, but anyway the man was killed. The case came up in the court at North Bay and the judge there awarded damages against the company of $4,000, and the case is now in appeal. We will never know whether it was contributory negligence or what it was, because there was no one there at the time. At any rate the judge in assessing the damages took a fair way. He was getting $3 a day, and assuming he could work 250 days a year it would be $750, and then he took his possible life on the actuaries' table, and he had a boy about something like eleven years, and he figured out also when the boy would be able to earn something for his mother, and gave judgment for $4,000.

MR. MAGUIRE: I don't want it understood that I am casting any reflection on the ability or the integrity of the courts of our country, but I do say that judgment is a concept of things. It is not anything that is concrete. As your Lordship is no doubt familiar with history you will know that the concepts of justice have changed just as often as corresponding conditions have changed. Your Lordship is well aware of that fact, and I hold the concept of justice that your Lordship holds at the present time may change, and the concept of justice that the working men hold is at variance with your concept of justice. It is not one concept of justice by any means.

THE COMMISSIONER: How do you know that?

MR. MAGUIRE: Judging by the decisions that are handed down by our courts of which you are a member. We don't attack your honesty or integrity in any way.

THE COMMISSIONER: Well, you think a court is entitled to do natural justice, but the court has no such power. The court is confined to administering justice according to the law, and a judge sitting would have no more right in determining a case contrary to the law than he would have to go to you and take out of your pocket your money. The fault is not in the administration of justice; you must change your law. It is the law that is at fault.

MR. MAGUIRE: You know our laws are such that they can be interpreted and re-interpreted to suit the idiosyncrasies of those who interpret them.

MR. A. SMITH: With reference to the discussion with Mr. Mahon I would like to mention one point, as to the primary or ultimate injury. I haven't had the privilege of considering the New Zealand Act, as recommended by the Association, and I don't know what your Lordship's Commission is considering, but from my little experience of accidents and the accident insurance business I am impressed with one thing, and that is that an employer of labour should be responsible only for the primary loss. There is undoubtedly a very large amount of loss of life and valuable time to people who meet with a trifling injury and through ignorance or prejudice or carelessness or unsanitary conditions or constitutional complications sustain serious loss from what was only a trifling injury, and that loss the employer in all justice should not be responsible for. There are in these days, we know, advocates of a cult of philosophy or medicine, or what you please, who will not consult a physician, and who will magnify a loss by what they believe to be an approved procedure and in reality neglecting to give it scientific attention. It is the commonest thing in the world for a scratch of the hand that is perhaps inflicted with a septic tool, by neglect and failure to dress it, and failure to treat it properly, becoming infected. Perhaps it is mere uncleanliness of the injured person, but it results in blood poison, loss of limb, loss of life, and it is an exaggerated loss. If the employer were to be responsible for the ultimate loss resulting from every accident of employment, he should have the power to regulate the injured man's personal conduct and care of his injury from the time of its receipt. Anything that is fairly and justly traceable to direct and unavoidable result of the accident might be properly included, but I would think otherwise it would be a hardship and injustice.

MR. MAHON: There is a provision in the New Zealand Act that any one who will wilfully abstain from having medical or surgical attendance loses his right to any further compensation. I think it is the New Zealand Act.

THE COMMISSIONER: Mr. Ware, do you understand that such a provision as is suggested by the Unions you represent and by the Toronto and Dominion bodies, would be in substitution of existing rights? In other words if such a law as that is passed would there accompany it a cancellation of the common law obligation on the employer?

MR. WARE: With regard to the insurance?

THE COMMISSIONER: You prefer compensation with State insurance.

MR. WARE: Yes.

THE COMMISSIONER: They would secure whatever the act provides for an employee when he is injured. Is he to take that in lieu of any other right the he has got now, or may he elect to take what the law would give him with the disadvantages of the doctrine of common employment and contributory negligence, if he chose to take that?

MR. WARE: Well, as I understand the proposals it would be in lieu of the common law liability. The common law liability is so restricted now that it is difficult to get any compensation under it.

THE COMMISSIONER: They run side by side in England. The common law liability is not gone, and if a man fails to recover under the act, he may under certain circumstances proceed on his common law right, if he has any.

MR. WARE: I understand that is the case here in Ontario.

THE COMMISSIONER: One of the things that there is so much trouble about is this notice of the accident, which is very often unjustly used to the prejudice of the man that is injured. It is sometimes too strict in the time the notice was required. Now, I cannot imagine, unless a man is inventing an injury, that if

there is an injury happens to a man that it would not be known to the managers of the mine.

MR. O'CONNELL: Small things sometimes happen , and they might have after-results which would come back.

MR. WARE: There is nothing serious happens which they do not know.

MR. O'CONNELL: No, but it is a possibility.

MR. WARE: There is another point which my clients desire me to mention, and that is this: in some mines people apply for employment and they do not give a correct representation as to their experience, and the consequence is we find that incompetent men are placed in positions of control and trust in the mine, where they direct the men, which they are unfitted for and incompetent to fill, and as a consequence of their directing of the work and the control of the men accidents happen, and the mine is put in a much more dangerous condition, or allowed to get into a much more dangerous condition than if competent men were employed.

THE COMMISSIONER: What do the workers do when that state of things arises? Are they dumb, or do they make a complaint to the manager?

MR. WARE: Well, it is very seldom complaints are made by the working men of the men above them. I don't think that is a common thing.

MR. O'CONNELL: The point you wish to make, for instance, is there is a law on the statute books here that every man that runs a boiler over a certain number of horse power should have a certificate, and the government is very lax in those things. They never come and see. The mines try to get men of that kind, but they can't always get them.

THE COMMISSIONER: Do you mean a man in the mine?

MR. WARE: One speaker gave an illustration of a man who didn't know a sill. That is what I mean, and that is the point I want to make, that there are often incompetent men, and there should be I believe some provision either in this act or in the Mines' Act that none but experienced men should be employed.

THE COMMISSIONER: Would that not be along the lines of the views suggested of having better Government inspection?

MR. O'CONNELL: That is the thing.

THE COMMISSIONER: And then give that inspector the right to see that men in positions of trust are fit for the positions, and to require him to be sent away if he is not. I don't suppose there would be any objection to that.

MR. O'CONNELL: No, and another thing, and I voice this question as a personal view on the matter, and without prejudice, or without any idea of criticising the Department of Mines at all. This camp has been operating for some seven years, and some six years ago Mr. Corkill was made Chief Inspector, but as you all know the Province of Ontario is very large, and the number of operating mines in the Province are far greater—greater by ten times than they were five years ago— and I do not think the Government is treating the mine operators fairly, and I don't think they are treating the mine managers fairly, or treating themselves fairly when they are so niggardly with their appropriation for the inspectors. They ask an inspector to work for a salary that he can get running a grill in this mine, and I don't think it is fair. The men who are inspectors are competent, faithful men, and they are not paid properly or in proportion to the labour they render. It is a physical impossibility for Mr. Corkill to come up here every time a little accident happens, as he is supposed to do now, and it is an enormous waste of labour and time. I am speaking personally of course, but I think it would be far better for the mine workers and the mine operators if there was a good resident

inspector in a camp of a certain size who would make at least a monthly inspection of every mine in the camp. I think it would be better for the workers and the employers, and if that point could be brought before the Government in the form of a memorial, or through your Lordship, I think we would be benefited by it.

MR. GAUTHIER: I think the argument that our representative has put up there is weak in this way, that the mine managers or the mill operators, or any other operators, have sub-bosses. They have shift bosses, and it is the duty of these men to see they do their work, and put the men to work, and let me tell you if they don't do their work in a few hours the shift boss will fire them. That is what they have shift bosses for, and they go around the men who are drifting and raising and so on, and if the shift boss does his duty he watches the men put in the mine by the operator, and if they don't do their work properly it is his duty to fire them.

MR. KINGSWELL: In New Zealand the Miners' Union can have one inspector of their own. They have an inspector in every district in New Zealand which has more than four mines, and it is the duty of that inspector or head man of the Union to listen to the complaints of the men, and see if they are reasonable. That man is allowed to go down to the men at the discretion of the mine owners, of course. If they are timbering a mine, of course he couldn't go down, but he is allowed to go down to examine the conditions, and he represents to the Government if the mine is safe. I may say New Zealand is the worst country for mining accidents, but they have an inspection of the mine every day, if they want it.

MR. BOTLY: I would suggest that the mine owners of this camp have refused to recognize the Miners' Union.

THE COMMISSIONER: Do I understand, Mr. Gauthier, you would be opposed to better inspection of the mine by the Government?

MR. GAUTHIER: No, certainly not. I am certainly humanitarian, and I am against accidents of any kind, and I believe if a man gives his hard labor he should be protected. It doesn't matter how the protection comes. Speaking as an officer in the Miners' Union here, we pay sick benefits, and I say the less accidents the better for all workers, and the life and limbs of these workers that go down and breathe the bad air, and work for eight and nine and ten hours, should be protected. There is a little correction I would like to make. Mr. O'Connell stated that the lowest wage was $2.25 a day, and I may say there are men working in this camp for $1.75.

MR. O'CONNELL: Underground?

MR. GAUTHIER: No, $2 underground. But I am not opposed to any measure that would provide a strict inspection. I wish they had about 15 mine inspectors here, and we would have less accidents.

MR. MAGUIRE: I think to satisfy your Lordship on the point raised by Mr. Gauthier, Mr. Gauthier takes the position that there should not be any specific inspection of the employees before they go to work. That is to say they should not have to give evidence that they are up to a certain standard, or they should not have to give evidence that they have been working so long, because if I was hungry I would tell a man I could make watches, and it would only be a loophole for fraud.

MR. GAUTHIER: That is my point.

THE COMMISSIONER: I thought the suggestion was not that the workingman would have to be inspected, but the men put in positions of trust would be inspected as to their qualifications.

Mr. Ware: I didn't get quite finished with what I was saying when Mr. O'Connell spoke. I intended to give the point that has been brought out by Mr. Gauthier, but it is not necessary for me to say anything more on it.

Mr. J. Whalen: There is a little ground here that I think hasn't been covered, and I think it is a most vital point in the Compensation Act. It is with regard to the carelessness or negligence of the employee. Now, I have been in places where men have been insured in a mine. In British Columbia, I may say, in those boundary mines, they pay his compensation whenever it is due without any trouble, and this is the way they go about it. Their foremen and their managers and their shift bosses are competent to do their work; they are trained men or they wouldn't be there; they have had a lot of practical experience, which is not the case in some of these camps around here. I know there are men in some of these camps put in charge of workmen who know nothing at all about it. Now, I think the companies could protect themselves in this way. They could put up any apparatus they thought fit, and they could instruct their foremen and shift bosses to look after all new men especially, and see that they were not negligent, and if they were negligent discharge them right away. After a man has been there for some length of time and has proved himself, then if an accident happens it would strictly be up to him, but if we leave this loophole for the company to say that in one case it was through the negligence of one man or the other, why, the Compensation Act for us will not amount to a snap of your fingers. It is easily proven.

Mr. O'Connell: I think the point he wants to make is that there should be some sort of inspection or supervision. Mr. Kingswell instanced a case where the miner had to have a certificate. Where they are operating coal mines such a thing is in force by reason of the fact that coal mining conditions are much more dangerous by reason of damp and explosions and they have all got to get certificates of competency before they assume their duties. I don't know whether it is the intention of the Government to bring this in or not, but if it is, we should like to be heard further on it.

Mr. Maguire: Who is going to give a man a certificate that he is competent or not?

Mr. Kingswell: The Inspector of the Government. I could question you and soon see whether you know anything or not.

Mr. Maguire: I think it would resolve itself into the greatest orators having the best certificates, and not the practical men.

Mr. Cohen: I think we ought to take into consideration here that the mining business is a special business, and the men working in mines are mostly supposed to be men skilled in their business, and they get compensated to a greater degree for their skill and for the chances they take, and any legislation that is made should take the mining business specially into consideration.

Now, in factories and businesses of that kind where it is possible to get unskilled labour, they don't get the money that the men in the mining business get. Some of the labour representatives here say that they have no objection, or would have no objection to men who were unskilled going into the mine and claiming they had skill and claiming they had experience. They would get paid for the skill they were supposed to have and they would add to the danger of the other men. Now, the thing seems to me to be paradoxical. They are either miners or not miners, and if they are getting paid in one way for the hazard they take and the skill they have, it seems to me that any legislation that is made should be made specially for the particular business. If we pay the compensation to them in wages we are practically paying insurance to them. That is just a point I make as a mining man.

MR. MAGUIRE: Just a word in reply to that. I may say what the average man gets in wages he usually spends in living. Whether he does it judiciously or injudiciously is not the question. The question is to provide something for his family. The average miner does not do it, and that is the question.

MR. KINGSWELL: We were always expected as shift bosses to go down with the men to see if they are miners, and if they are not we put them out of the mine. We would ask a man to put down a hole, or take a hammer, and we would see whether he could strike a drill. You can soon tell whether a man is a miner or not when he starts to work. That is the way they did in New Zealand.

MR. MAGUIRE: What would this gentleman do with a man like Bill Ross? Bill Ross was a blacksmith and yet he was one of the greatest prize drillers that the world ever knew. How would he get along with him?

THE COMMISSIONER: Is there any miner from any other point?

MR. MAGUIRE: I am in addition a representative from Porcupine.

THE COMMISSIONER: If there is anybody here who desires to say anything do not hesitate. I am here to hear all, and I do not want anybody to go away and say he is sorry he didn't get a chance, or didn't avail himself of the opportunity.

MR. GORMAN: I may state so far as the position of the workingmen of this district is concerned, they desire to have the best possible act they can secure from the Government to cover this Workmen's Compensation. I may state that the general consensus of opinion among them seems to be that contributory negligence should not in any way affect the payment of compensation which would be provided for in the act, because if there is a loophole left for any litigation it follows that those with means are in a far better position to fight the case and to deprive the workingman of the revenue and the amount, than what the workingman is in a position to come in and prove his claim, and in fact in many cases in the courts it might possibly be construed as carelessness where it is only a matter of common occurrence in the following of the occupation by every man. A man may often overlook certain points which may be construed into negligence in a court of law, where it is only following out his occupation. I might state that the Russian Act, as defined, seems to be a pretty good act, as far as I understand, except inasmuch as labor has to contribute, and we held that the employer alone should contribute to pay for any accident that the workman is a victim of, just as much as to make good for any machinery or anything else that is put out of commission.

THE COMMISSIONER: In a camp like this would it be possible that some local tribunal upon which the workman and the mine owners would be represented, should deal with all claims of compensation finally? I do not suppose the gentlemen may be in a position to say off-hand as to what the view would be, but I would like both sides to consider that, and see if there couldn't be some kind of a tribunal in a district like this so that when an accident happens it would be investigated immediately and dealt with on the spot.

MR. MAHON: Without any right of appeal whatever?

THE COMMISSIONER: Yes, or perhaps a very limited one.

MR. MAHON: I should think as far as the mine managers are concerned they would be very glad if there were some such Boards appointed locally.

THE COMMISSIONER: In the State of Washington they have a board where they investigate all these complaints.

MR. LOTHIAN: In the event of a case coming up like that in this camp, who would select the men to take the case of the men? Would the representatives of the men come from the Miners' Union? The Federation of Miners here is not recognized.

THE COMMISSIONER: In a case of that kind would it make any difference whether a man was a Union man or not? Surely he would be in sympathy with labour.

MR. LOTHIAN: It wouldn't matter to me as long as the man got the compensation.

THE COMMISSIONER: Supposing you are going to select a Board, the mine owners would choose a representative on that Board, and the mine workers would choose another member of that Board. It would not do to exclude the Union men, and it would not do to exclude the non-Union men.

MR. LOTHIAN: How would it be possible for the non-Union men and the Union men to come together?

THE COMMISSIONER: I suppose they could.

MR. LOTHIAN: They are not together. If they were together they would be Union men.

MR. BOTLY: The Mine Owners' Association at Cobalt does not include all the mine owners in Cobalt, and in that case they are accepted as competent witnesses, I presume, for what you might call the defence in this Compensation Act case, and I submit to you why should it not be as reasonable for the organization of the labour men in this camp that the Cobalt Miners' Union should be accepted as witnesses for the plaintiff, as you might put it, in this case?

THE COMMISSIONER: It wouldn't be witnesses at all. It would have to be a case of an honest, independent Board that would determine according to the truth and the right.

MR. BOTLY: I presume it would be constituted as many other Arbitration Boards are constituted, one representative from one side, and one from the other, and both to agree upon the third.

MR. MAGUIRE: Just a word on the question you ask for your benefit. This is my individual opinion, that a workingman in this or any other camp who does not belong to a labour organization where one exists, either hasn't got the necessary amount of intelligence to see the situation in his own interests as a workingman, or if he has the intelligence he lacks the moral courage to express it, and such a man as that I feel would for either one or the other reason be inclined to give the benefit of the doubt to the mine owner, and not to the workingman.

THE COMMISSIONER: Wouldn't the man, on the other hand, say I haven't confidence in men that haven't confidence in themselves; I stand upon my own bottom: I know what my rights are and I know what my interests are, and I act as my judgment teaches me; I am not bound to subordinate my views to my fellow workman and have him dictate when I shall work or how I shall work. There are two sides to all these questions.

MR. MAGUIRE: As we Union men here are the only representatives of labour that are here I am simply giving my humble opinion.

THE COMMISSIONER: I am not quarreling with your opinion. I am only pointing out there are two sides.

MR. WHALEN: I myself have served on a jury in this country where the Provincial Police selected a jury with regard to a mining accident, and the result was the greater part of the jury, when it came to explaining the circumstances that led to the accident, didn't know anything about it because they weren't miners, and they brought in a verdict it was just an accident. Now, it might result the very same in this case which you suggest, so you would have to use pretty good judgment in selecting the men.

MR. MAHON: That is referring to a coroner's inquest, no doubt.

THE COMMISSIONER: I am not suggesting that it is feasible at all. I am only throwing out the suggestion to see what you think of it. Something is desirable to get immediate settlement of claims, and preventing the wasting of money in litigation, and letting the hungry lawyer get it instead of the man who suffers. It is hard to devise a satisfactory scheme.

MR. GORMAN: The scheme adopted by the Carnegie Steel Company seems to be a very fair one, both to the men and to the managers or owners. They have a safety committee which is composed of men chosen by the men themselves, and the officers of the company. I don't see why it wouldn't be possible to go a little further in that, not only for the prevention of accidents, but in settlement of claims, by having the manager as one party for the company, and a chosen employee who is chosen by the men themselves, together with a definite appointeee, a judge of a Division Court, or any equitable party, and those three men get together and settle the case off-hand, but I think that the Compensation Act should be the scale on which it was based, according to the views which Mr. Mahon has expressed, and then work out the solution of the employees and managers with some definite appointee.

THE COMMISSIONER: You see there are so many injuries that a man might sustain that are not easily located. It is difficult perhaps in these spinal troubles to tell whether a man is really suffering as he thinks he is, or whether it is something else. That is a class of case where it is difficult to get at the extent of the injury. I suppose if it is a broken leg or that kind of thing it is easy enough to form a judgment. Perhaps those cases are not so frequent in a mine.

MR. WHALEN: In the mining industry the work is very heavy as well as hazardous, and a man that can go and lug around a three hundred-pound machine or swing an eight-pound hammer for eight or ten hours has very little the matter with him.

MR. KINGSWELL: Will you allow me to make an explanation with regard to what Mr. Maguire said. He said that a man can go into a place and prove another man is a miner when he isn't. He says a blacksmith could go and take out a hole. Could a man come in and fool a man who knows how to make that hole and how to blow it out to the best advantage? There is no blacksmith can work like a miner. Any miner in this room knows that. I want to impress upon you the advisability of having good practical men.

THE COMMISSIONER: I have heard from the Union men and the mine managers, and some who are not Union men, and now I would like to hear from the only independent man, the man who does not work at all.

MR. KINGSWELL: I am one that doesn't work at all.

MR. WHALEN: If it were decided to grant compensation for diseases peculiar to the industry, I think it might occasion some trouble in fixing the liability on the parties responsible for that disease. If a man works two months and then leaves and works somewhere else for a month, how are you to tell?

THE COMMISSIONER: That is covered by one of the acts, and they divide it up. In some the disease is progressive, and if he has been in several employments —I am now speaking with certainty—they apportion it between the different employers.

MR. MAGUIRE: I would like to call this very important fact to your attention, with regard to drawing lines of demarcation as to what would be right and what would be wrong and where one thing would stop and another commence. We know it is the hardest thing in all science, and we know it is the hardest thing in all practical life, and that lines of demarcation are always hard to draw; but

Governments or people cannot possibly stop progress simply over a difficulty of drawing lines of demarcation.

THE COMMISSIONER: If there is anybody else wishes to speak I will be glad to hear him. I am very much obliged to you for having put in your appearance here, and for the information you have been able to give me. It has been all taken down so that not only I will have the benefit of it in performing the duty which I have been commissioned to do, but the House and the country will have the benefit also, because it will no doubt be printed. The ultimate tribunal are the people of this country to determine all these matters, and they will have it before them.

The only thing which has jarred upon me to-day at all is the statement by one gentleman here that seems to indicate that he believes that war between the employer and employee is a natural condition, and apparently a condition that he does not see much harm in. Now, I think that is a most terrible state of things.

MR. BOTLY: If I might interrupt you, I might suggest that there has been war carried on amongst the various nations of the world for untold centuries, and after the lapse of time has passed we have seen those wars have actually benefited the human race, and I claim that this war is in the same position.

THE COMMISSIONER: We wouldn't have any more wars just for the purpose of trying the experiment. No doubt labour has had a great deal to complain of in the past, and perhaps it is only now coming to its own, but it is not helping itself on by proclaiming war against the rest of the community. It is all wrong, unsound and dangerous.

MR. COHEN: I do not think that is the sentiment of the workingmen of this camp. In our own mines, speaking of it because I am more familiar with it than any other, I have 174 men on the average pay roll that were employed in 1910. We paid a bonus to the men who worked there three months and who were in the employ of the company at the end of the year, and we paid a bonus to 159. In other words there were 159 men who were satisfied to stay, and that is under conditions where men come and go. Miners are restless and don't stay long in one place, and they are single men. Those 159 men were paid bonus cheques and they were employed over three months, and 100 men out of the 174 were employed the whole twelve months, and they undoubtedly were satisfied with their conditions or they wouldn't have done so. I don't think there is any such feeling in the camp at all. I think the majority of the men are satisfied, but there are a few men who in their zeal—I am not speaking personally—or in their desire for advancement, take that position. We do not want you to go away with the opinion that the men in this camp are dissatisfied. I have been a workingman myself. I have worked in mines just the same as these other men have, and I know the workingman's views. I don't look at him from my position of mine manager; and I know the men are not at war with the mine managers. They have nothing but a friendly feeling, and the feeling is reciprocated.

FOURTH SITTING.

LEGISLATIVE BUILDING, TORONTO.

Wednesday, 27th December, 1911, 11 *a.m.*

PRESENT: SIR WILLIAM R. MEREDITH, *Commissioner.*
MR. F. N. KENNIN, *Secretary.*
MR. W. B. WILKINSON, *Law Clerk.*

THE COMMISSIONER: Have you something to bring up this morning, Mr. Bancroft?

MR. BANCROFT: Your Lordship, I think we are ready with our case. Probably you are aware of that, but I will go over it and perhaps make some explanations, and we may give some evidence afterwards, if it is necessary. I will read what has been prepared, which has been put in the way of recommendations. It is addressed to Sir William Meredith, Commissioner of the Provincial Government, *re.* Workmen's Compensation Legislation.

"SIR,—Understanding that it is the desire of this Commission to make recommendations for a Workmen's Compensation Act in harmony with modern industrial conditions, we have the honour to submit herewith recommendations for a Workmen's Compensation Act for the Province of Ontario. These recommendations have been discussed, and unanimously agreed to by representatives of the Dominion Trades and Labour Congress, Toronto Central Labour Council, the Building Trades Council of Toronto, and the Metal Trades Council, whose signatures are appended hereto."

This represents probably in the neighborhood of 150,000 in the Dominion Trades and Labour Congress; 18,000 to 20,000 in the Toronto Central Labour Council; the Building Trades Council, I believe, represents somewhere in the neighborhood of 12,000, and the Metal Trades in Toronto probably 5,000 or 6,000.

"We also understand that it is the expressed desire of the Commission to report to the next session of His Majesty's Provincial Legislature, the conclusions and recommendations for legislation of this Commission on this subject. We therefore have lost no time in taking the matter up to suit the convenience of the Commission. We propose to give plainly, therefore, the fundamental principles which we believe should be the basis for construction of a new Workmen's Compensation Act in this Province. It is unnecessary to refer to the present legislation in Ontario. Its uselessness has been pointed out for years by representatives of labour, its obsoleteness, indeed, preventing almost any one from even an attempt to defend it. The ancient character of the present legislation may make it seem to many that a new Act in harmony with modern conditions, with modern legislation in countries that have made serious attempts to solve the question, is in the nature of radical legislation, but that is merely because the matter has been so long neglected in Ontario.

"We propose that the new Act shall cover:

"1. All employments, the employees of the Province, municipality, county, or other administrative bodies in the Province to be covered the same as employees in industries.

"2. Compensation for all injuries arising out of, and in the course of employment.

"3. Compensation for being disabled, or other injuries arising out of, or as the result of, a specified occupation, the said disablement and injuries being in the nature of occupational diseases.

"4. Entire cost of compensation to rest upon employers.

"5. In the case of injuries resulting in death the dependants, as outlined in the British Act, and State of Washington Act, shall be the beneficiaries, with the expenses of the funeral, as outlined, also.

"6. The doctrine of negligence on the part of the employee or employer, fellow-servant, or otherwise, shall have no place in the new legislation.

"7. State insurance in connection with Compensation Act.

"8. The creation of a Provincial Department of Insurance with three Commissioners, for the purpose of administration of the act.

"9. Compulsory insurance of employers in the State Department, by a yearly tax levied upon the industry, or occupation, covering the risk of the particular industry or occupation.

"10. The tax shall be upon the yearly wage roll.

"11. No employer shall attempt to pay the tax by deduction of wages of employee, by agreement or otherwise, such action to be regarded as a gross misdemeanour as provided for in the State of Washington Legislation.

"12. The schedules of payment under the act, to be based upon the payments under the British Act, with the proportional increases due to the difference in the wages in Ontario, reflecting the difference in the cost of living.

"13. The Provincial Government shall provide revenue for the creation of the Department of Insurance.

"The following will give you some idea of the weight of opinion in favour of the burden being borne by the employer, or industry alone:

"*Great Britain.* The employers alone bear the burden, and they insure voluntarily in State, mutual, or private stock companies.

"*Norway.* Employers bear the burden and State insurance is compulsory.

"*Sweden.* Employers bear the burden and insure as in Great Britain."

That is voluntarily in State, mutual or private companies.

THE COMMISSIONER: What State insurance is there in Great Britain?

MR. BANCROFT: There is State insurance whereby the employer can insure.

THE COMMISSIONER: When was that created?

MR. BANCROFT: I wouldn't be prepared to say when it was created, but it is the fact. I have here a report of a Commission which was probably one of the best Commissions that ever took into consideration Workmen's Compensation. In the summary of Workmen's Insurance in Europe, Frankel, who is the head of the industrial side of the Metropolitan Life Insurance Company, says that in Great Britain the character of that insurance is according to the choice of employers in State, mutual, or private stock companies. "Frankel and Dawson" is a 1910 publication. It also goes on as to establishment funds, compulsion, the number of men covered, etc.; by the employers alone is the burden borne. It is all here for your perusal.

THE COMMISSIONER: I think that is a mistake. I do not think there is any State insurance in Great Britain.

MR. BANCROFT: I think myself that in Great Britain at the present time there is a means of the employer insuring in State insurance. In fact I think it would be only the truth to say so. This is the most complete report of any Commission that has gone to Europe, in my estimation. It is on the Russell Sage Foundation, and is one of the best reports that has ever been made. I know the British Trades

Congress are asking for State insurance, and they are asking for compulsory insurance. They are not merely asking for State insurance, but compulsory State insurance, so that if State insurance is possible at the present time, it seems to be the fact that the employers do not take advantage of it, and the labourers want to make it compulsory.

"Then in Holland employers bear the burden by compulsory insurance in State, mutual or private organizations.

"*Denmark.* Employers bear the burden and insure as in Great Britain, but insurance is compulsory.

"*Belgium.* Employers bear the burden by voluntary insurance as in Great Britain.

"*France.* Employers bear the burden by voluntary insurance as in Great Britain.

"*Italy.* Employers bear the cost by compulsory insurance, but insure in State, mutual or otherwise as in Great Britain.

"*Germany.* Employers bear the cost of workmen's compensation. Insurance is compulsory in State, mutual trade associations, and State Executive Boards.

"Wage earners covered by such compensation:

Great Britain	13,000,000
Norway	400,000
Sweden	1,000,000
Holland	1,000,000
Belgium	2,100,000
France	9,500,000
Italy	10,000,000
Germany	15,000,000
Total	52,000,000

"Fifty-two million workers covered by compensation legislation, in which the whole burden is on the employer or industry.

"There are those who confuse the contributory schemes of such insurance, invalidity and old age, with compensation legislation, but this Commission is not dealing with social insurance, only so far as it affects compensation for accidents, fatal or otherwise, arising out of or in the course of employment, and we therefore deal with it as such.

"The doctrine of contributory negligence was the always fruitful source of litigation, and as the position 'that the worker would injure himself to obtain compensation' has become untenable, as well as the fact that if a workman takes risks it is generally because in the nature of his employment conditions make him do so, this doctrine has almost wholly passed away. It exists mostly in old legislation on the matter.

"The tendency of thought in Europe as well as North America is toward compulsory State insurance."

THE COMMISSIONER: This contributory negligence in the ordinary sense is done away with in England, but they retain the provision where a workman is injured "owing to serious and wilful misconduct."

MR. BANCROFT: Yes, gross misconduct.

THE COMMISSIONER: "Serious and wilful misconduct" is the wording.

MR. BANCROFT: Except where it is fatal. The great source of litigation was the contributory negligence clause, which allowed the employer to show in the slightest accident that the workman had contributed in some manner or other to the accident.

THE COMMISSIONER: That is gone, of course, under the British law.

MR. BANCROFT: I think the British law was built somewhat on other European legislation. Germany had three different acts. First they had a sickness and death insurance legislation, and then they had legislation which covered invalidity and old age, and the Workmen's Compensation Act was the completing of the social insurance of Germany; and of course the first step in social insurance in Great Britain was Workmen's Compensation, and naturally she took probably one or two ideas from Germany, but finally she had to make almost a completely new piece of legislation, because insurance for sickness, invalidity and old age has got to follow workmen's compensation in England. Where Germany started out Great Britain has got to end. It is just *vice versa* in those two countries.

"The British Act, an admirable one, is found to be in need of improvement in this direction, as the British Trades Congress, the mouthpiece of organized labour, is seeking to have established compulsory State insurance in connection with the act. The Manitoba Act, modelled upon British legislation, is found to be wanting improvement in this direction also, as the Central Labour Council in Winnipeg has expressed itself a short time ago as intending to seek compulsory State insurance in connection with the legislation. The splendid legislation of the State of Washington, recently placed in operation with a State Department of Insurance, and a declaration of police power, is worthy of your most serious attention, from which we quote the following:

"The common law system governing the remedy of workmen against employers for injuries received in hazardous work, is inconsistent with modern industrial conditions. In practice it proves to be economically unwise and unfair.

"It's administration has produced the result that little of the cost to the employer has reached the workman and that little only at large expense to the public.

"The remedy of the workman has been uncertain, slow and inadequate.

"Injuries in such works, formerly occasional, have become frequent and inevitable."

I want to draw your attention to that last clause particularly: "Injuries in such works, formerly occasional, have become frequent and inevitable." That is under the common law system.

THE COMMISSIONER: What does that mean?

MR. BANCROFT: It means this, that under the present legislation that we have in Ontario it is not expensive enough. An accident is not expensive enough to an employer to induce him to prevent it. The only way to stop accidents in industry is to make it too expensive for them to have them. You can't blame the employer. You can from a moral standpoint, but not from a business standpoint. He is running the business at the lowest cost of production, and unless it is made expensive, which legislation generally has to do, the employer doesn't make it his business to prevent those accidents.

THE COMMISSIONER: What do you mean by making it expensive?

MR. BANCROFT: By the compensation.

THE COMMISSIONER: That is the state of the present act.

MR. BANCROFT: Here is the evidence under the common law: "Injuries in such works, formerly occasional, have become frequent and inevitable." That is what experience has proved.

THE COMMISSIONER: What is the authority for that statement?

MR. BANCROFT: I suppose the authority of the people who drew that act of the State of Washington. I have three volumes of the evidence taken before the Commission.

THE COMMISSIONER: You are reading from the preamble?

MR. BANCROFT: Yes.

"The welfare of the State depends upon the industries and even more upon the welfare of its wage worker.

"The State of Washington, therefore, exercising herein its police and sovereign power, declares that all phases of the premises are withdrawn from private controversy, and sure and certain relief for workmen, injured in extra hazardous work, and their families and dependants, is hereby provided, regardless of questions of fault, and to the exclusion of every other remedy, proceeding or compensation, except as otherwise provided in this act; and to that end all civil actions and civil causes of actions for such personal injuries and all jurisdiction of the courts of the State over such cases are hereby abolished except as in this act provided."

THE COMMISSIONER: Does that mean that these organizations which you represent are in favor of substituting whatever compensation is provided for for any other remedy which the workmen might have at common law? That is what the Washington Act does.

MR. BANCROFT: Not completely, sir.

THE COMMISSIONER: Practically so. There is only a very limited case. It leaves the one case if death results from the deliberate negligence of the employer. Then they also have an action at common law.

MR. BANCROFT: Sure.

THE COMMISSIONER: But apart from that as I understand it the Act takes the place of any common law liability.

MR. BANCROFT: Yes. Well, if we could be guaranteed a Workmen's Compensation Act so wide in its provision as the State of Washington I don't see that the workers of this country would have any objection to the jurisdiction of the court as far as injuries are concerned—injuries arising out of employment. It should be given to a tribunal such as three commissioners in a provincial Government like this, because they are practically constituting another court.

THE COMMISSIONER: I do not think you have comprehended my point. There may be as the result of an injury a liability of the employer at common law. Now, the State of Washington Act with the one limited exception that I mentioned takes away that common law right, and substitutes for it the provisions of their law.

MR. BANCROFT: Yes.

THE COMMISSIONER: I would like to understand whether your body have considered that aspect, and whether they favour it?

MR. BANCROFT: Yes, I think we are thoroughly in favour of that providing that we also have the provision or loop hole that is left in the State of Washington Act, which, in my opinion, is intended for the specific purpose of allowing a man, if he does not get thorough justice under the State of Washington legislation, to still have the courts, just as the British Act, because the State of Washington act was undoubtedly modelled on the British Act, with the addition of State insurance. We would like the same rights as in the State of Washington and the British Act, if justice is not done.

THE COMMISSIONER: That is an appeal from this Board you speak of?

MR. BANCROFT: Exactly.

Surely, Sir, this must commend itself as a guide for administration of compensation, without litigation, such as anyone having at heart the welfare of the workers might follow.

Perhaps the best feature of the Washington legislation is the fact, that it makes for the prevention of accidents, which we regard as more important than compensation. The taxing of industries according to their respective risks, is an incentive to the employers to reduce the risks, which means a reduction of the yearly premium.

It is only by making risks expensive in industry to employers that we can hope to reduce them to a minimum.

Contracting out clauses, sub-contractors' liabilities, all the aggravating questions of controversy and litigation, could be obviated by provincial compulsory insurance, with a department of administration, in connection with which the Provincial Health Department could, on investigation among the workers of Ontario, tabulate, what are occupational diseases in our own Province.

It is possible that in our Province we have not the occupational diseases that they have in other parts of the world, but it is also possible that we have occupational diseases in this Province that they have not in other parts of the world, and it would be necessary probably for the Provincial Health Department to find that out. I think they could get all the evidence that was necessary.

We believe that an Act modelled upon the British Act in principle, with the compulsory State insurance of the Washington Act, with its police administration, and tax upon industry, as a preventive for accidents, would be the best for the workers as well as for the employers.

With regard to the sums of compensation in the schedules, we will be willing if you decide on the British Act altogether, to work out the payments for Ontario, taking into consideration the different financial proportions of wages and cost of living.

The British Act is founded upon the principle that the workers that are covered get below £250 a year, or $1,250. That would be too low in Ontario, because the same class of workers in Ontario would not be covered probably unless a sum of $2,000 was stated. There are probably many mechanics to-day who are getting very near that mark, and over.

THE COMMISSIONER: Our present law is $1,500, or three years wages in the trade, whichever is the larger.

MR. BANCROFT: In speaking about that you must remember in the British Act they have covered them in a different manner than the present act in Ontario.

THE COMMISSIONER: No doubt.

MR. BANCROFT: "We would say, however, that if you follow the British Act completely, it should cover all workers in Ontario getting less than $2,000 a year, endeavour to prove to you that some of the payments made by the month are too low.

"Anything less than either of these two Acts will be inadequate to meet the needs of the workers of Ontario, and as this Province is the manufacturing centre of our Dominion, we claim that the legislation that should be adopted, and which we desire, is that pointed out by the fundamental principles we have laid down for your consideration.

"Any further evidence you may need we will be only too pleased to procure, and we ask you to request our co-operation for this purpose at any time."

This is signed by all the representatives of the different organizations which

have met and discussed the question. It is signed by myself as Vice-President of the Trades and Labour Congress, with Joseph Gibbons and J. W. Doggett; for the Toronto District Trades and Labour Council by Frank McCann, President, and Henry R. Barton, Secretary; for the Metal Trades Council, by James H. Ballantyne and Joseph Hellicker; for the Building Trades Council by William Nettleship, President; by Andrew Miller for the Brotherhood of Carpenters; and by the joint executive Board of the Carpenters' Organizations, H. A. Ryder, Gerald Baines, A. J. Udall, and George Thomson.

That is a statement of the principles upon which we believe, your Lordship, a modern Workmen's Compensation Act should be built. In support of our statement we have the proofs ready and will give them to anyone, or answer any questions that anybody may wish to ask on the matter. I may say I think myself, and I think organized labour thinks all over this country, that State insurance is the real principle for making a Workmen's Compensation Act efficient. The question then arises as to whether State insurance should be compulsory. In countries where they have State insurance it looks as if it had been found necessary to make it compulsory before it was efficient. Probably the word "compulsory" is not one that the employers will like very much, but all things more or less in legislation are compulsory. I will not read any more or give any more of the evidence, but it is all here, and anything you wish to ask, or anything the manufacturers wish to ask, I will be ready to answer any questions.

THE COMMISSIONER: What do you say as to this argument that is used against the Washington system, as to the stated percentage of the wage bill, which represents the tax upon the particular industry?—Take the printing industry, for example.—It is said now that that tax being levied equally upon all, the man who is careful of his workmen and up-to-date in his appliances to prevent accidents, has to pay for the careless man who is on the same footing with him and pays no more and does nothing to prevent accidents?

MR. BANCROFT: It is not a good argument, your Lordship, for this reason, that the State of Washington Act provided a penalty for the careless employer as well as the careless workman.

THE COMMISSIONER: Does it?

MR. BANCROFT: Ten per cent. He has to pay a certain sum into the treasury when he is convicted of carelessness.

THE COMMISSIONER: That is a particular carelessness, not the ordinary carelessness, that is a breach of some State law.

MR. BANCROFT: No, I think you will find it is where he is convicted of carelessness.

THE COMMISSIONER: The British Act provides one method of determining the amount of compensation, and refers to a joint committee composed of representatives of the employers in a particular trade, and the workmen in that trade. Is there anything like that in this country, or is there anything like that presented?

MR. BANCROFT: Well, as far as the British Act is concerned, your Lordship, I think the first step that has to be taken in the matter of compensation is a conference between the representatives of the injured party and the employer, and if they can't agree then it is submitted to arbitration.

THE COMMISSIONER: If they have such a committee it may go first to the committee. Have you got any such thing?

MR. BANCROFT: No, there is no permanent committee under the British Act.

THE COMMISSIONER: Undoubtedly, but I am asking whether you have any such committee?

Mr. Bancroft: In Canada? No.

The Commissioner: Would there be any difficulty in providing for that?

Mr. Bancroft: I don't know, but I would like to read this to your Lordship. In Great Britain the settlement of disputes is (*a*) by a Committee of the employers and the workmen.

The Commissioner: That is the Joint Committee?

Mr. Bancroft: Yes, but it is not a permanent one. (*b*) By arbitrators selected by both parties, and if the employer and the injured party cannot agree then they submit it to arbitration. The arbitrators are selected and they choose a third; if they can't agree or it is not satisfactory to the parties it is settled by a judge of the County Court; that is, a third man, and he generally settles it.

The Commissioner: Where are you reading from, because I don't find that in the British Act, about the third method of arbitration? The only artbitration provided for is that it is determined by the judge of the County Court sitting as arbitrator, or somebody appointed by the judge with the sanction of the Lord Chancellor. That Joint Committee is a kind of Board of Arbitrators.

Mr. Bancroft: If the Joint Committee can't agree they appoint an arbitrator each.

The Commissioner: Where the Joint Committees of employers and workmen exist for the purpose they shall settle the compensation to be paid and other matters relating thereto, including costs, unless either party objects in writing. If they fail to act within six months the matter has to be dealt with by the County Court judge.

Mr. Bancroft: That is true, but what I mean is first of all the employer and employee get together, and then it is submitted to arbitration, and then to the County Court judge.

The Commissioner: Of course they can submit it to private arbitration, but the Act makes no provision for submitting it to private arbitration.

Mr. Bancroft: There are three kinds of arbitration under the act.

The Commissioner: I don't find it.

Mr. Bancroft: There is an explanation of it by one of the foremost barristers in the country, Mr. Emery.

The Commissioner: Of course there is nothing to prevent an arbitration between A and B, whether workmen or not, but there is no provision in the Act. That is all I am speaking of.

What, if anything, do these labour organizations do for the wounded members of the Order? If they meet with an accident in the course of their employment do they do anything for them? Is there any provision for helping them?

Mr. Meredith: In our Brotherhood if they lose a hand or foot they are entitled to insurance, the same as though they were killed outright.

The Commissioner: That means that if what is proposed is made a law a man is paid twice over for the same injury, does it not?

Mr. Doggett: I might explain that point you have just referred to, your Lordship. I belong to an organization that is all over the English-speaking world, the Amalgamated Carpenters and Joiners, and in countries where there is legislation along these lines that we are now discussing there are certain provisions made in our constitution whereby one of our members receiving compensation through the State it is less considerably than what he gets in Canada, where we have no legislation along those lines.

THE COMMISSIONER: If you had legislation giving full compensation to the workmen for the consequences of an accident, what would your organization do, so far as paying him the insurance is concerned?

MR. DOGGETT: Under our Constitution, your Lordship, the Amalgamated Society of Carpenters and Joiners, if the injured member of our organiztaion receives compensation through the State, or compensation through the courts, he receives half of what he does in another part of the world where he receives no compensation through the State.

THE COMMISSIONER: Is that fair, Mr. Doggett? Supposing the man has got full compensation from the employer, why should he get anything from his fellow employees?

MR. BANCROFT: Would you say, your Lordship, if a man was paying on a policy of insurance for a number of years, and something happened where he got compensation, that it would be unfair for him to draw the insurance for which he had paid so long?

THE COMMISSIONER: I should think it would. If the injury is covered by what he gets from the State surely it is all wrong that he should get more.

MR. BANCROFT: In no case in the world does a workman get full compensation.

MR. DOGGETT: I would like to point out, your Lordship, a man receiving compensation from our organization pays for that before he receives it, and also if we obtain in this Province a Compensation Act with State insurance, if the compensation is charged up to the different industries, or the liability is charged up to the different industries, we as consumers will also again pay him.

MR. GIBBONS: We have found it necessary to have insurance for the reason that there has been no compensation up to date.

THE COMMISSIONER: I can't understand that.

MR. GIBBONS: And possibly if we get a Compensation Act we will then mould our organization to fit in with the act. Up to the present it has been a matter of us looking after the injured, or the widow, or the orphan, and we found it necessary, or our organization found it necessary, to raise the amount. We only paid $100 funeral expenses, but we found it necessary to raise that to $800, to provide something for the widow and orphan. I have gone into a house after death and I have found that there wasn't another dollar between that woman and the family and starvation but that $100. Now, of course, a great many members may die without being injured, and therefore we pay the same in the case of death in any event. It is not an accident insurance, it is an insurance in case of death.

MR. MILLER: In the Brotherhood of Carpenters I may say we pay $200 at death, and also for disablement $400. That of course is covered by the dues which we get in, and, as Mr. Gibbons has said, up till now we have had nothing to take its place. I have no doubt the organization will have to remodel their payments and benefits.

THE COMMISSIONER: They could give more for sickness and things of that kind.

MR. MILLER: Yes. All the organizations don't even have sick benefits.

MR. BANCROFT: Besides, Mr. Emery, the barrister, there was Philip Snowdon——.

THE COMMISSIONER: He is pretty wild.

MR. BANCROFT: In this case he says there are three kinds of arbitration.

One of these gentlemen is a barrister, and they are never wild. There are two by agreement and the third by proceedings in the County Court. Then, Philip Snowdon says, there are three methods of arbitration under this Act, two under agreement by the parties, and the third by the County Court judge. This is the result of a Commission according to the Russell Sage basis, (*a*) by agreement, (*b*) by arbitration. (*c*) by a judge of the County Court if the parties can't agree. That is the interpretation of the British Act.

THE COMMISSIONER: Your argument is that the exception in the British Act as to contributory negligence should be done away with? Supposing a motorman, for instance, deliberately disobeys the rules of his employers and as a result kills a dozen of the passengers, and he himself breaks his leg. Do you argue that the public would stand for making the employer pay that man compensation?

MR. GIBBONS: We find in those cases where the company makes rules, they make other conditions that render it impossible for the men to carry out the rules.

THE COMMISSIONER: That cannot be general.

MR. GIBBONS: I have no doubt your Lordship is referring to an accident which happened the other day. Now, it has been heralded broadcast that there was a notice for a stop, and there was no notice there for a full stop.

THE COMMISSIONER: I am putting the case where a man deliberately goes past a signal that he knows means stop, and kills a dozen people, and breaks his own arm and leg. Would it not shock the public's conscience if that man could compel his employers to pay him compensation?

MR. BRUCE: Doesn't that come under the common law, if a man is convicted of manslaughter?

THE COMMISSIONER: He would be paid compensation according to the proposed act, Mr. Bancroft?

MR. BANCROFT: Not if we model it under the British Act.

THE COMMISSIONER: No, but you are objecting to that. You want all contributory negligence of every kind done away with.

MR. GIBBONS: We find in a case of this kind that the company puts up orders for certain stops, and if a man obeys that order and runs behind time the chances are that he is in more danger of an accident than by passing on, and if he obeys that order and gets behind time the company has no use for him.

THE COMMISSIONER: I suppose there is no doubt about that, Mr. Gibbons, that there are rules that are made not to be observed?

MR. BANCROFT: Now, your Lordship, do you think that is a fair argument against Workmen's Compensation, that if a man deliberately and criminally did something for which the public wouldn't stand he would be paid compensation? I am not very old, but I don't remember yet of a case where it has happened. Does your Lordship remember a specific instance? If there is a specific instance it is not an argument against compensation.

THE COMMISSIONER: There are dozens of cases happening where men deliberately disobey signals.

MR. BANCROFT: With criminal intent?

THE COMMISSIONER: I don't care whether you call it criminal or not. They have done it with their eyes open.

MR. BANCROFT: There may be motives behind that we cannot discover.

THE COMMISSIONER: Do you mean to argue if a locomotive engineer, seeing a semaphore against him, deliberately goes by and comes into collision with another train, that that man has any claim morally or otherwise for compensation if he is injured?

MR. BANCROFT: I don't see, your Lordship, where that is an argument against contributory negligence.

THE COMMISSIONER: I am not talking about that. Nobody questions now that ordinary contributory negligence ought not to disentitle a person. That seems to be generally conceded. The question is whether where a man is guilty of serious and wilful misconduct which leads to accident, whether he would be entitled to compensation.

MR. BANCROFT: If you will read our statement we have asked for a Bill that shall not be less than the British Act or the State of Washington Act. We have asked for the abolition of contributory negligence. We haven't heard stated a specific instance of a locomotive engineer criminally doing something. We have asked on general principles for the abolition of contributory negligence as we understand it, and not from specific negligence such as the locomotive engineer doing something that is criminally negligent. There could be a clause put in where a man has criminally disobeyed orders that he should not receive compensation.

THE COMMISSIONER: I do not see very much objection to the words in the British Act, if the words "wholly" is put there, "Where the accident occurs wholly from the serious and wilful misconduct of the employee,"—where it is due wholly to that cause. Then, as one of the gentlemen pointed out, where death ensued that exception does not apply.

MR. BANCROFT: Well, I don't think the workers of this country would have any objection to that part of the British Compensation Act, the way it is worded, provided the administration of it is the same as in Great Britain, but we have found this, that the conditions in this country are so different and so far behind Great Britain.

THE COMMISSIONER: Do you mean to say industrial conditions in this country are behind Great Britain?

MR. BANCROFT: No, conditions as far as legislation is concerned, I should say. They are, or we wouldn't be here to-day.

MR. MILLER: There was a case in Great Britain of contributory negligence, where a man met with an accident who was under the influence of drink, and that is generally, or almost invariably understood among the workers to be the only bar to a man getting compensation. Now, that case was tried out in the courts, and the man won out for this reason, that the superintendent allowed him to go to work in that condition.

THE COMMISSIONER: There may be exceptional cases.

MR. MILLER: That is one. It was said where the superintendent allowed him to go to work they didn't have complete supervision over their plant that was necessary, as the law thought, in that case.

THE COMMISSIONER: Now, one of these things that has created trouble under the British Act is where there is nothing to show how it did happen, and therefore it is left in doubt as to whether it happens in the course of a man's employment. Now, it seemed to me that possibly it might be proper to provide that where the accident happened that there should be a presumption that it arose out

of the employment unless the contrary be shown by the employer. Under the present law a good deal of hardship is created. A man is killed, nobody being present, and the death may have happened in two or three different ways, and sometimes a man's representatives have failed because there was nothing from which a court or jury could draw properly the inference that he was killed owing to something that he was not himself responsible for. Do you follow what I mean?

Mr. Miller: A man being killed, without witnesses.

The Commissioner: Without witnesses. Ought it not fairly to be presumed that that accident arose out of his employment unless the employer shows the contrary.

Mr. Bancroft: Certainly. I would say the inference is if he was killed he was following his employment.

The Commissioner: There was a curious case in which the workman failed under the British Act. They were working at threshing, and a wasp stung one of the men that was working, and blood poison set in and he died. He could not recover anything. They held while the injury happened during his employment it did not arise out of his employment, and it might happen wherever he was.

Mr. Miller: I should certainly say, your Lordship, that it did arise out of his employment. The very fact of him being working in the open air and it was possible for the wasp to sting him while he was acting properly in his employment. I don't see that it could be brought in under anything else.

The Commissioner: They decided the other way, unfortunately for the man's family.

Mr. Miller: I may say, your Lordship, I am the subject of compensation under the British Act, and no one saw my accident.

The Commissioner: I am talking about the man that is killed.

Mr. Miller: Had I been killed the cause would have been the same. Had the article hit me on the body it would have gone right through me, but instead of that it hit my finger, cutting it completely off. Nobody saw it, although I was working in a shop with 50 or 60 others, and some of them close by me. But there was no question that it arose out of the course of my employment because nobody saw it.

Mr. Meredith: I have been railroading since 1866. That is something over forty-five years, and I have found that it is one of the greatest difficulties in the world to settle the responsibility for an accident. I have made out, I was going to say, many hundreds of casualty reports, being a conductor on the train, and you will find every different workman in his different class will try to set the accident on to the other fellow, and the company will generally try if a man is killed to put the blame on him. That is how I have found it. A dead man can say nothing. Therefore you will find it is perhaps one of the hardest things in the world. When we had an accident happen it was my duty to go home and make out a casualty report and to send it in to the superintendent as to what I thought was the cause of it, and more often than not you would get into a row if you put in just what you thought was the right thing. If it reflected a little on the company, why, you were pretty nearly sure to lose your job. That was pretty near a dead certainty.

The Commissioner: How many years did you say you had been there?

MR. MEREDITH: I started in 1866.

THE COMMISSIONER: You must have made out the reports and doctored them up to suit the company to stay so long?

MR. MEREDITH: A man when he is working for a living I tell you is mighty careful what he says. That is my excuse. Now, perhaps it is out of the way to talk about this accident where these people were killed, but still I think it should be. I was down there yesterday, and to a practical man, a man that is a railroad man, there is no reason to think that it wasn't the faulty construction of the switch that caused the accident. That switch is a regular man-killer, I would call it, when that switch was put in like that on that sharp curve. There is no protection made whatever if a car happened to race away, which is very likely to happen on a grade like that. That is my experience of it. There is no reason in the world why it should stay on the track. The chances are that it is almost sure to go over if it was going anything over ten miles an hour. I took particular stock in it, and yet most people are blaming that motorman for running the car down that hill. Perhaps it is right. I am not saying it isn't, but still the primary cause of that accident, if I was making out a casualty report, I should say was that faulty switch which was not put in right. Yet if I was working for the company I would be mighty careful, mind you, if I had a good job earning two or three dollars a day, how I put in that report. I should probably figure it out and put it in in such a way that nobody could be blamed for it. I confess it. I have made out reports, simply because I wanted to keep my job. I had a family that I was working for and I had a home that I wanted to keep up, and a man is naturally careful about those things; and I say in this Compensation Act what we want as railroad men is something that will give a man fair compensation, never mind what it is. Sir William puts it quite nicely there, where it is purely his own fault that he gets hurt, and he hurts someone else into the bargain, but at the same time that man's family has to be looked after; you can't let them suffer; you have got to look out for them. I think I would make it a little wider than the workmen. A farmer is a workman, and Sir William himself is a workman. Probably he has got enough money and he does not need a couple of thousand dollars if he got hurt, or his family doesn't, but the biggest part of us do, you know; $2,000 comes in mighty handy if a man gets knocked out. I think it should be made in such shape that, never mind what happens, something should be done. That is my impression, and I don't expect to get anything either. I have quit railroading now, although I am still a railroad man, and say that I would give a man, or his family—I wouldn't give it to the man if he was put in jail—it is no use to him—I would give it to his family. This State insurance that Brother Bancroft put in is a splendid thing. It is not fair to ruin an employer because he happens to meet with a serious accident, but at the same time the people have got to live. I am on the City Board of Sick Relief, and I am going around every day pretty nearly relieving poor families, and really as a rule you could say it was not their own fault, but the poor things have got to live. That is the way I look at it. Somebody has got to help them.

THE COMMISSIONER: Mr. Kennin, did you send a message to Mr. Drury, and to Mr. Smith and to Mr. Gregory?

MR. KENNIN: Yes, Sir William.

THE COMMISSIONER: It is surprising to me that these bodies of persons that assume to represent the farming interests of this country do not seem to wake

up to the fact that what has been asked for is that the farmers should be brought under the operation of this act. They never have been, in this country, up to the present time, and they are not in the State of Washington. I do not know whether it is intended that those who assume to speak for them want the thing to go by default and concede that the act should be applicable to the farming industry. I should think it would be well if somebody would attend on their behalf to state what their views are.

Mr. Wegenast, have you anything to ask these gentlemen who represent Labour?

MR. WEGENAST: No, I think not, Your Lordship.

THE COMMISSIONER: That Washington Act has only been in force since October last, I think, and it is very difficult to say how it is going to work out. Some people seem to think the schedule of rates is altogether too low. I think we should have somebody from the accident insurance companies.

MR. GIBBONS: Couldn't they be adjusted from time to time?

THE COMMISSIONER: No doubt.

MR. GIBBONS: So far as I could gather I believe the proposition of the manufacturers was to insure their pay-roll. I am not surprised that they haven't any questions to ask for I think it is in their interests as well as the workmen's. We know that the insurance companies are not in business for their health but to make a profit, and if there is a State insurance the State is not here to make a profit. I have no doubt if they found out the scales were too high they could adjust them, and it would be insurance at cost to both parties. I think that is the advantage of State insurance.

THE COMMISSIONER: I suppose, Mr. Gibbons, you have read what a member of that German Imperial Insurance Department has to say about the operation of their system? He says there are frightful frauds committed. That is Mr. Friedensburg, I think. I don't know whether he is a prejudiced witness or not, but the great difficulty in State insurance is to prevent fraud upon the community by dishonest claims. That is one of the greatest difficulties under any Workman's Compensation Act, to guard against claims that have no foundation in fact.

MR. WEGENAST: There is one thing perhaps I might mention. I wanted to ask Mr. Bancroft whether any action had been taken by the labour organizations on the communication which the chairman of our committee sent a week or so ago suggesting a conference to discuss the whole question?

MR. BANCROFT: It was discussed at the Trades and Labour Council meeting and it was referred to a committee that has been in existence for eighteen months. You will get a reply, I think, to-morrow or the day after.

MR. DILLON: Something was said about making it too expensive for manufacturers. Now, we have an inspector that comes into our factory and he tells us where he wants guards, and we have to put the guards on. It is a question of coming up in the police court if we don't, whether we think it is safe or not safe. The inspector calls around and makes an inspection quite often, and he tells us what he wants done. Then he comes shortly afterwards to see that we did it. We have one big machine there and we had to guard the gears. I didn't think it was altogether dangerous, but he said it might be, so we put guards on. The inspector looks after it pretty well now. I know he looks after my factory well. We have never had an accident in our factory, but we have had several accidents out on buildings. I don't think the employer wants to see an accident. He is as careful as the workingmen. Only yesterday I went down on King street to the bank

building, and the man was putting up a cornice. They all have instructions to be careful and to build scaffolds that are safe, and if there isn't sound material on the job they are to get it. That is on the back of the time sheet. This man was working on a narrow ledge and I had to get him off and compel him to build a scaffold. I know he was doing it to cheapen the work and to get it done a little faster, but still for all that it doesn't cost very much, so I compelled him to build a scaffold. We don't want accidents. I just say this in connection with what was said about making it more expensive for the employers or the manufacturers.

MR. BANCROFT: I think if the gentleman will get Mr. Schwedtman's report that was given at the Manufacturers' Convention he will find that prominent manufacturers who organized their own mutual trade associations had rules of their own for governing employers who would not come up to certain specifications and safeguards. I think if the cost of State insurance is made absolutely upon the employers then the employers would see to it that every man in the Canadian Manufacturers' Association, or every employer, would do his utmost to reduce the risk, or a penalty would be imposed if they didn't. The manufacturers themselves do it in Germany.

MR. GIBBONS: The statement of Mr. Dillon clearly demonstrates the fact that if care is used in having safety devices accidents will not occur. He has stated here that he has never had an accident in his factory. It has been the minimum. That is due to the fact that he looked after his scaffolding so as to prevent accidents, while another man would allow his workmen to go on.

MR. DILLON: I said we had no accidents in the factory, but we have outside.

THE COMMISSIONER: He may have been fortunate in having had very careful workmen. You cannot eliminate that factor. There are some men who are careful and other men who are very careless.

MR. MILLER: My experience of the planing mills around here in four years' work is that they are not to be compared with the planing mills in Britain. There are belts running from the floor right up to the machines, and if a man gets his leg in, nothing can save him, and there is no inspector comes around to see about it.

THE COMMISSIONER: Why do you not as a public benefactor report it? I don't think it is right to blame the inspectors if people whose lives and limbs are in jeopardy from conditions of that kind do not take the trouble to write to the men who have to look after this, calling their attention to it?

MR. MILLER: There are also piles of lumber in some of the mills too dangerous for men to stand around them. I myself have been a victim in one of the planing mills.

MR. BANCROFT: The evidence that was given here by the representative of the Brotherhood of Railroad Engineers shows that the employers make it so that the men cannot complain. Take a big industry to-day where there is something happening that needs the inspector's attention, and a man sends a letter, and it comes out that his name is at the foot of it, and he won't have his job ten minutes.

THE COMMISSIONER: These are all confidential communications.

MR. BANCROFT: We attempted once to get a whole lot of evidence regarding bridge construction in Ontario where the men were not being paid according to their contracts, and there wasn't one man who dared sign his name. He would give you all the evidence but he wasn't willing to do more. There are conditions that make it so they won't complain. It is a matter of bread and butter to them. It should not be a workman's business to make the factory inspectors inspect buildings; it is a matter for the Department.

THE COMMISSIONER: I should say that every honest citizen should do all he can to assist the provincial officers in having the machinery and applances in proper order. I should think there was a moral duty upon every man who knew of a defective condition in his shop to communicate that to the factory inspectors.

MR. DOGGETT: Your Lordship, only last night I was attending an inquest down at the City Morgue regarding the reason of the death of one of our members last week, where one of the outlooks on a scaffold collapsed, and as the gentleman over here says it is very difficult to get men who are in the employ of a company or contractor to come up and tell the truth. Last night down there we had the men that were working there, and although the man that was killed was a brother member and a fellow craftsman, those men were in that position—they recognized the fact that the two contractors were there, and they were afraid. The Coroner last night could not get evidence out of those men. The economic conditions that those men are working under prevented them, the way I saw things, from giving evidence. They were afraid if they gave evidence in favour of the people, who will take action I presume against those contractors, they would lose their jobs.

THE COMMISSIONER: How do you know they could have given evidence against the contractor? Did you take the trouble to enquire?

MR. DOGGETT: I might state, your Lordship, that I went up to this particular job before there was another nail driven, or before any more work was done, after the accident took place, and any man that is a practical carpenter going up there could see in a minute exactly how that accident happened. I had no chance to see the outlook that was pulled down or fell down until I got down to the inquest last night, but I had explained to our organization just exactly how the nails were.

THE COMMISSIONER: Was that not the fault of some artisan or scaffold builder?

MR. DOGGETT: The fault was with the man that built that scaffold.

THE COMMISSIONER: Then why in the name of common sense will men who are employed and whose duty it is to do the work properly and who have the facilities for doing it, jeopardize the lives and limbs of their brother workmen by doing the work in a manner in which you say it is done. You want education. You want to educate the men of your organization.

MR. DOGGETT: That is quite right, your Lordship. We recognize that, but under the present competitive system, when prices are so keen, and contractors are jumping over one another to come out on top of the job—and in this case one of the contractors helped the other man to put the scaffold up. Now, there has been quite a bit of talk this morning about accidents in industry. If your Lordship will take note of the daily papers in this city you will notice the building trades are suffering a great deal lately from want of proper protection on scaffolds. Even on this building that is being rectified. Around in the west wing there have been open well holes and open stairways without any protection, right in the building where the Commission was sitting on Compensation to Injured Workmen and in the building where the Legislature or the Government saw fit to pass a Scaffold Bill.

THE COMMISSIONER: Did you go in to the Minister of Public Works and call his attention to it? If you did not and an accident happened would you not be to some extent morally responsible for it?

MR. DOGGETT: I did complain to the foreman carpenter. If you go over the foreman carpenter the result is every time almost they will refer you back to the foreman. If I went and saw Mr. Lennox he would say, "Have you seen the foreman?"

THE COMMISSIONER: Did the foreman carpenter do anything to rectify it?

MR. DOGGETT: There was a railing put up afterwards. I saw it myself on some of the stairs, but other openings had been made and other places were left unprotected. That is happening all the time. It is quite true, as your Lordship says, we need a great deal of education in the building trades to protect ourselves, but the way I see it, we have got to legislate against the careless man to make him protect himself, and not only himself, but the wives and children. They are the people who generally suffer. This past summer in the city of Toronto, in the past building season, we had an enormous number of scaffold accidents. Our organization alone has had five serious cases, and two deaths outright. We had one of our men killed at Oakville by the faulty construction of concrete work, where the mesh iron was put in too near the top. Instead of being put down four or five inches it was half an inch too near the top. This legislation is badly needed in this Province, there is no question about that.

MR. HARRIS: Would you make it a criminal offence for a workman to construct improperly, or leave improper openings of this kind? How are you going to avoid it unless you punish him?

MR. DOGGETT: The building trades in general, I believe, your Lordship, are always endeavoring not only to lift the wages of the workers up, but to see that other things are looked after in their interests, such as the proper protection on buildings. Lots of these cases arise where contractors in the city of Toronto ——. Take the job at the present Legislative Building where perhaps there are half a dozen different contractors. Perhaps one contractor will put a scaffold up, and the tinsmiths will come along and work on the same scaffold, and these are the conditions that we are confronted with in the building trades in this country.

MR. MILLER: In my opinion there will certainly have to be some legislation along with the compensation on safeguards to minimize accidents. In Great Britain if an employer works or operates a machine without a safeguard that has been ordered or suggested to be put on by the factory inspectors, or if it is a regulation safeguard that is required, they take the employer to court and fine him for working his own machines.

THE COMMISSIONER: We have the same law in this country.

MR. DOGGETT: I would like to ask your Lordship a question, or ask any gentleman around that could answer it. Under the present Compensation law that has just gone into effect in the State of Washington what would a small building contractor pay to that State fund?

THE COMMISSIONER: He would pay upon his wage roll just the same way. Of course there will be great difficulties in working out a law such as that, to make the State tax collector hunt up everybody that has anybody in his employment and collect a tax from him. I don't know whether the thing will break down of its own weight.

MR. BANCROFT: They have travelling auditors.

THE COMMISSIONER: Fancy over this Province with hundreds of thousands of employees, and the thousands of establishments. The Government would require an army of officials to hunt up all these people and then collect the tax from them.

MR. DILLON: The insurance companies have those now, and we pay to the insurance companies.

THE COMMISSIONER: If you don't insure then you bear the loss yourselves.

MR. DILLON: I would rather have it compulsory insurance. I think it would lessen it some.

THE COMMISSIONER: But you don't want to be delivered over with compulsory insurance to the mercy of the company?

MR. DILLON: Oh no, not the mercy of the company.

MR. GIBBONS: In the building trades everybody has to take out a permit, and they can find out from the places where permits are taken out who has built. The Government could do it that way.

THE COMMISSIONER: The tax is collected in localities. I don't know how this State of Washington law is going to work. I have forgotten whether there is any machinery provided.

MR. BANCROFT: Yes, it is in the last few pages.

MR. WEGENAST: Just at this juncture it might be well to say that in the State of Washington both the employer and the employee have been almost too anxious to report.

THE COMMISSIONER: Report what?

MR. WEGENAST: Report pay-rolls, accidents, and everything. The Insurance Commissioners have been flooded, so to speak with reports. The persons in charge of the Department for the administration of the Act are three Commissioners and their assistants, a staff of twelve. I have been in rather close touch since I visited the State, particularly with the active Commissioner, and so far as he reports to me there is no difficulty whatever in regard to that feature.

THE COMMISSIONER: I wouldn't want to be the Prime Minister who passed a law that made it necessary to go to everybody employing a man and demanding of him a tax every year.

MR. WEGENAST: In the State of Washington it only applies to extra hazardous industries, but there is a provision that it may be made wider by consent. I think there is no doubt the reason it was hedged about in that way was because it was thought it would not be constitutional if made applicable to the lesser industries.

MR. BANCROFT: That is the great difficulty over there.

THE COMMISSIONER: I do not see any machinery for collecting this tax.

MR. WEGENAST: They have machinery, your Lordship. It may not be in that act, but I have in my office copies of the first reports, and a good deal is being left to the judgment of the Commissioners. A good deal is, of course, not yet worked out.

THE COMMISSIONER: Their system enables it to be done more simply than in this country. There they collect the State tax through local municipal organizations.

MR. WEGENAST: I do not think they depend on State taxation. I think the employer sends his cheque.

MR. BRUCE: At the present time there is an income tax law, and isn't it a criminal offence to offend against that law?

THE COMMISSIONER: That is a municipal law.

MR. BRUCE: Wouldn't it be as applicable as the other?

THE COMMISSIONER No, if they are not going to do it through the municipal body. You wouldn't want an army of officials going around all the time.

MR. BANCROFT: Why should you assume that, your Lordship? All legislation that has had for its object the interest of the worker in any particular, that has been the first argument generally used, that it will need an army of officials. We need an army of officials for every piece of legislation, and surely there should be no objection on that account.

THE COMMISSIONER: I should say it was a most cogent argument. In democratic countries they are borne down by the weight of these parasites that are living upon the community. That is the trouble.

MR. BANCROFT: Which parasites?

THE COMMISSIONER: I am talking about an army of officials. They are parasites. I don't use it offensively, but they are eating up the substance of the people.

MR. BANCROFT: There are an army of parasites in connection with every legislation, and it seems peculiar that it should be mentioned as to legislation with regard to the workers. The same argument was used in Great Britain as here, but it hasn't proved to be true.

THE COMMISSIONER: There is no use talking about legislation that at present is merely experimental. They haven't got to the end of it.

MR. BANCROFT: Is it not possible to administer a Workmen's Act in Ontario without an army of parasites?

THE COMMISSIONER: I am not talking about the Workmen's Compensation at all. I am talking about State insurance.

MR. BANCROFT: The arguments that are used against workmen's compensation say that it is the workers that need education. The workers of this country as well as any other country go to school until they are fourteen years of age, and then they are sent out in the battle of life to earn their living, and they are subject to all the economic conditions, and they are speeded up to the limit to earn a living and to make the employer's profit, and when an accident occurs they say the workers need education. If the workers had the intelligence to-day that they ought to have they wouldn't allow these things to stand for a moment. I feel that keenly this morning. We have been asking for education for the workers from time immemorial, and we are asking to-day, and it isn't given to them. It is not their fault that they haven't got education to understand these things. That argument might be used against protecting little children because they are ignorant, but the legislation protects little children, and they haven't got education or anything else. It is compulsory. From what we believe about legislation, it is to protect the weak against the strong, it is to protect those that cannot take care of themselves, and if the workers are brought under economic conditions where they cannot take care of themselves then it is absolutely necessary that there should be some legislation in the nature of workmen's compensation.

THE COMMISSIONER: You are missing the point. You are making a mountain out of a molehill. The point is, and Mr. Doggett has admitted it, that the workmen are not so careful of the lives and limbs of their fellow men as they ought to be, and they need education on that. It is not a matter of want of knowledge, or children having education; it is a matter of teaching them what they ought to do to protect the other men and to prevent an accident to the other man.

MR. BANCROFT: Then I think the point of Mr. Doggett's argument has been missed, and I would ask Mr. Doggett to explain that.

MR. DOGGETT: I think I said previously the economic conditions that prevail to-day, that men are living and working under make men do things that they would not do under a different system.

THE COMMISSIONER: There is no doubt about that, but there is no use putting our heads in the sand. There is no doubt that workmen are extremely careless in their work, although they know if the work is badly done it may jeopardize the lives of their fellow-workmen. We must deal with conditions, not fanciful theories.

MR. MEREDITH: I know in railroading every department tries to run its department as cheap as they can. Now, that is probably the fundamental principle under which a great many accidents happen. The locomotive department tries to run its department with as little money as they can, and the car department the same, and the road department the same; and we find when an accident occurs each one of these departments tries to lay the fault on the other.

THE COMMISSIONER: We are getting far afield. The question raised was a question of scaffolds. The employer gives to his workmen material to put up a scaffold properly, and they don't nail it properly or they don't put it into putlocks properly, and that is what we want to guard against. That is what I understood Mr. Doggett to speak of when he spoke of education needed by the workingmen. I think they need it.

MR. MEREDITH: I think he said they skipped their work on account of economic conditions.

THE COMMISSIONER: That would not appeal to me at all. It is not common sense. No doubt there are a great many things a man does under the stress of modern industry that he would not do if there was not stress, but there is no use giving me the idea that every workman is angelic when everybody knows there are careless men and reckless men in the business, and these are the men against whom their fellow workmen require some protection.

MR. GIBBONS: There is one explanation I might make. As you are aware, manufacturers and contractors are in business for profit, and the workmen recognize the fact that the men who they retain in their service are those who bring them the greatest profit, and a man who takes a lot of time in order to make things sure, while he is doing that he is not making profit for the contractor, and therefore they retain the men in their service who bring them a good deal of profit, and a man rushes his work to hold his job. It is the economic conditions that bring that about. You take a man and educate him so that he will make everything solid and you will find he is not retained by the contractor very long, and rather than lose his position he rushes the job as fast as he can, and while he is rushing the job, while he may think it is all right, yet he hasn't taken time to see it is secure.

MR. MILLER: I would like to say in connection with this carelessness on the workman's part one of the principles of the workmen's compensation is not only to give compensation but to prevent accident. I want to say this too in connection with the scaffold accident that Brother Doggett mentioned, if the contractor is not going to supervise his work properly by putting a superintendent on each building to see that the scaffolds are properly made, as well as all other parts of work, then he has to suffer and should suffer for any accident that occurs on that building. Now, the fact is that in many cases there is no proper supervision on the smaller buildings in this city. The contractor himself goes around from one job to another and he has many a time no recognized foreman on these buildings. I mean where the buildings are only small, residential property, and so on, he gives instructions and he goes away, and these instructions may be carried out to the belief of the workmen that they are doing what their employer wished them to do. They always know for certain he wishes them to hurry and when he comes around again probably there has been an accident. Why? Because as I say there has not been proper supervision on that building. Now, the employer should bear the onus of supervising his work in a proper manner and these accidents would be prevented; and I think this workmen's compensation, if it is brought in at all for the benefit of the workers and for the safeguarding of the workmen in their employment, will certainly put the onus of superintending the work on the employer.

THE COMMISSIONER: Surely you do not mean to put forward such a proposition that if a man has an experienced scaffold builder, and he has got three men working on a house, he has to go to the expense of employing a superintendent in addition?

MR. MILLER: No, but he should have a superintendent on that building all the time.

THE COMMISSIONER: It would be utterly impossible.

MR. MILLER: It only means a matter of four or five cents an hour. I don't think it is a very great burden on the industry.

THE COMMISSIONER: The unreasonable demands that are made by some of the workingmen, or those who assume to speak for them, creates a prejudice against their reasonable claims. They do not seem to recognize any man has rights except the man that works with his hands.

MR. MILLER: I don't take that position at all. What I maintain is that if a man is building a two or three storied house, from seven to twelve rooms, there certainly should be a foreman on that building who should take the onus in the absence of the employer for anything that is occurring on that building. That only means a matter of four or five cents an hour.

MR. BANCROFT: I think those are tremendously strong remarks, your Lordship. I should like you to give us an instance.

THE COMMISSIONER: I intended them to be as strong as I made them.

MR. BANCROFT: Your remarks are not based upon the experience of those who know the conditions about which they are speaking, and I don't know of anything that would call for the remark that organized labour is unreasonable in respect to the rights of individuals——

THE COMMISSIONER: Sit down, sir. You have no right to misinterpret me. I have not said anything of the kind. I will not listen to you at all if you attempt to misrepresent what I say. I wasn't talking about organized labour. I am talking about certain people who assume to speak on behalf of labour, that they make unreasonable statements which prejudice the reasonable demands of labour. I know what I am talking about.

MR. DOGGETT: We recognize the fact as workers that there are extremists on both sides. We are not all perfect, and we have not all been given the same dispositions or the same ability. We recognise that. I am willing to admit that.

THE COMMISSIONER: It does me good to hear a man like you speak, Mr. Doggett. It shows there is reason in the thing.

MR. DOGGETT: I didn't just get through, your Lordship. I wanted to say there are employers of labour who look upon a man who does use his hands as, practically speaking, insignificant, and takes no account of him at all, and they are extremists as well. There are extremists on all points—we recognize that—but I don't think there has been anything said here this morning that has antagonized either interest, on one side or the other.

THE COMMISSIONER: At Cobalt I had a gentleman who did not hesitate boldly to say that there must be eternal warfare between the employer and the employee, and all he wanted was to get compensation on these lines as the thin end of the wedge to upset the social order altogether. That is the kind of man I am talking about. Gentlemen, when they come to discuss and make a law, have to endeavour to discuss it fairly and try to look at both sides of the question, and not to press unreasonable views or want to press home things that would not be fair to the other side. I am not expressing any opinion as to what is fair, but I have heard some remarks that seemed to me to indicate that the person who made them

had not fully considered what he was saying and apparently was shutting his eyes entirely to there being anything to be said upon the other side.

MR. MEREDITH: I think it would be a pity if there was any antagonism here. I think we have come with the intention of trying to do the best we can for everybody, and to make it good for the employer as well as the employee. I know that is the object of the Brotherhood of Railroad Trainmen. We are working as well as we can in harmony. Of course when it comes to a matter of putting up the wages the employer generally thinks it would be better if they could pay them on a lower basis. Well, that is all right. That is his side of the question, and the man has the other view. We are to-day as trainmen working to cut out double-head trains. We consider it is one of the most dangerous things that is done perhaps on the railroad to-day, to run a train with two engines on it. I believe as a work man that is so. As a railroad man I don't expect to ever run on them again. It is the same in all these things, and yet they will run them because they think it saves a little money. It saves a gang of men to run two engines on a train, and yet perhaps if they worked the thing out with some one who understood figures they would find there was nothing in it, and that they didn't make money on it. But they think they do. I think most of the things we have suggested to the Grand Trunk Railway—and I have been at it ever since there has been anything of the kind, for perhaps I am the oldest Union man in Canada—I think that what we have done, as a rule, worked out for the good of the company as well as the men. To-day they are making more money on the railroad than they ever did before, and I believe that the suggestions of the men have helped to bring about this condition.

MR. DEMPSTER: As a student I have looked at this matter and tried to keep myself unprejudiced, and I think I can reasonably say and truthfully say that I can look at it with an unprejudiced mind. But there is plainly here to-day a pulling, a see-sawing, to get legislation, and one fellow wants to get the best of it. Undoubtedly it is so. He says he hasn't had the best of it in the past. Now it is most unfortunate when those who are in the industrial world (for I think the employer, especially the small employer, and the worker are both together brothers in the one thing), that as we have heard it said economic conditions are such that the man who does the work for the least money gets the contract. Certainly the public, those same people who are wage earners, buy where they can get the cheapest. They have produced economic conditions. The man catering to them says: "Can you make me a thousand of such and such, or so many dozen of such and such, at a certain price?" Very often they go to the workers and say: "Look here, we have got to push this thing through." Machines break down and the compensation, where does it come from? It comes out of what was considered a profit, but which finally vanishes. Workers may break down, but when the work is finished who has profited by it? I have tried to search for the profits and place all the payments for the same on the people who get the benefit, and I find the people, the public, get the benefit of the workers in the industrial world's extremest exertions, driven at a high rate of speed, and they have been working for the community just as much, I find, as the army called military, and many others, and I have found that it was a most unfortunate thing that the worker should be left with litigation ahead of him after he had been injured. There is despairing anxiety as to how the litigation may come out, no matter how you fix this law, and the same will be the case until the final arbitration boards decide; and then the solvency of the one who has to pay for it comes in, and it will probably leave you at the latter end in a worse state than when you started. It seems to me that the workers in the indus-

trial world, and they are all one, the employer as well as the workman, because compensation never pays for the injury that has been done to the workman: it never pays it. I do not think there is any valid argument in the statement sometimes made that should compensation be easily obtained the worker will court injury. A man is insane who does such. There is no employer but what would almost even risk his own life for the life of his employee. We see examples all through the whole world to-day, in mining accidents, and so on. Where is the man that will not risk his life to help another man, and yet we have heard to-day arguments of men who actually place on one side one class of men as wolves trying to eat the other. It is unfortunate such ideas are getting abroad. We are human and we are brothers after all, and I would take it out of litigation altogether. I think the fact that the man can hold up an arm and show it is maimed is sufficient proof that he should be compensated by the Government who in the name of the people should see that the worker in the industrial world should be looked after. The people to-day look after them, but how is it done? Not in a manner satisfactory. It makes the worker who has been injured, and we all recognize that, live on the people to some extent. It may be selling small wares; it may be friends who are charitable; but it makes them feel like a recipient of charity, while he has given his life, and he has been sacrificed on the altar of industry for the benefit of the people. Is he any less a ward of the State than the man who has served in the Fire Department, or in many other Departments, where the injured members are looked after at the public expense? I think it ought to be taken away from the worker to feel that despairing anxiety over what will be the result when he has been injured, and I would recommend, after looking at this thing, not from a biased standpoint, but a fair standpoint, that the industrial workers of the world should be looked upon as fairly as any other State worker who gets pensions. But I do not believe in saying that the industries that are hazardous should pay for all the expense. Why should they? There are other industries that are less hazardous. There are men who have got to take the risk owing to economic conditions. We hear it said to us repeatedly over and over again, if you can't come to the mission fields, send us your money. Why should those who have got the best positions in society, so far as industry is concerned, not contribute to help those who are in the hazardous industry? I think it is only fair. I commend this to your Lordship. I think the state ought to take away from the workers this anxiety. It is always hedged around with considerable litigation, and not by any means free from prejudice and heartburnings, yes, and bitter feelings often for a long time afterwards, not only on the part of the injured, but on the part of those who would be champions for such people. There is continually bitter strife with the employer and employee, and both of them when you get close to them are nearer to each other than brothers, and yet there is one trying to show the other is a wolf trying to eat the other. There are illiterate men who need education; they are on both sides. They have now inspectors who look after machinery and who look after the interests of the workers to some extent, and those who have taken the onus of providing compensation would look to it that the means of protection were adequate and sufficient. The investigation following the accident would put the blame where it rightfully belonged, not on the employer, because he was the employer, but on the man who was the cause of it, let him be employer or workman. A gentleman here said make it expensive, but you would probably have to make it a year in jail to have it expensive enough; but I would commend the taking of this matter entirely away from litigation. As I have said already, let the maimed or injured workman have argument enough in the fact that he has been injured in order to obtain compensation.

Mr. Gibbons: Now, your Lordship, in all that has been said I don't think there was any disposition to bring about the impression that every employer is a man of that kind. We all know it is a matter of history that there are companies in business for money, and in those cases we ask for legislation to protect them. While they make rules they do not expect the workman to carry them out. While they make rules they make conditions so that you can't carry them out and retain your job. We do not refer to the fair employer. We are all aware of the fact that there are fair employers and employers who, without any Compensation Act, do the right thing by the man that is injured, but it is for the man who will not do that. Now, as your Lordship said, for the man that has criminally brought about an accident we don't say he should not be punished for it. We are not speaking in general. We are speaking of extreme cases only.

Mr. Miller: When I spoke, Mr. Chairman, about the onus of the superintendence being put upon the employer, especially in the building trade, I didn't intend at all that it should be an inspector with a big salary going about doing nothing. The kind of foreman I referred to in that case is this: it is where the foreman works as well as the other men do and who is producing a good value for his wages apart from his superintendence. Now, at the first sitting of the Commission I endeavoured to point out the burden that the insurance companies placed upon private individual employers in the old country, and I gave you figures to show that even private insurance companies didn't make it an unbearable burden on the industries for the private employers who insured. We are advocating this morning a State insurance to do away with the private insurance companies. They are out to make all the profit they can, and we want the legislation to be of such a nature that the workers will be compensated when injured, and that the legislation shall safeguard the workman as much as possible by preventing accidents happening. We do not want to appear this morning as if we were crying for the whole loaf as it were. We know the employer has to live as well as we have to live. We only want a fair share of the living, a fair and comfortable life, and we contend that the workers are entitled to that and they should be safeguarded from accident in their employment. When a man to-day is killed or dies from occupational disease, the family becomes a burden on the State in most cases, and in any case it is the State that is bearing the burden because if a man's family has to go to the Workhouse or the House of Industry for relief is it not the State that is carrying the burden there? I have said nothing this morning with the intention of antagonizing anybody whatever, and I do not think any of our friends around the table have, and I should be sorry to think they did so.

Mr. Dempster: I think you have referred more than once to the fact that there should be proper superintendence. It would be difficult, I suppose, for you to say what proper superintendence would be, but as far as I have seen it worked out, say for the man who has two men earning $3 a day, you would have to put another man on who wouldn't come for less than $6, and that is putting too much of a burden on it.

Mr. Miller: My friend doesn't know anything about the condition of the building trades. He does not understand what I meant.

Mr. Dempster: But speaking generally, I would think the burden would be too great.

The Commissioner: He said he didn't mean a highly paid superintendent, but a foreman who works and would superintend for a few cents an hour more.

Mr. Miller: They do that until the superintendence becomes too much. When he has got a dozen men under him then he is not expected by his employer

to work with tools, but where there are only two or three or four. It is in those cases where most of the accidents are occurring to-day, where there are only a few men working on a building, and not where there are perhaps two or three dozen men. The superintendents in those cases are more than efficient. These men I am speaking of get four or five cents an hour more than the workmen with whom they are working, that is all.

MR. DEMPSTER: Your whole argument leads to where Mr. Doggett has placed it. We need intelligent workmen so that they get more of what they produce instead of half of it going to the superintendent.

MR. DILLON: We had one very bad accident where we had a really good superintendent, and we still have him. He can't watch everything. This man fell and broke his back and we were sued under the common law for $5,000. Sir William Mulock was the judge and he gave them $1,500. The insurance company defended the suit, but they failed, and we were let in for $500 besides that. This was under a superintendent. I don't know whose fault it was for it was hard to get evidence to prove whose fault it was, but it was a very bad accident. It, I suppose, cost us $2,000 which was more than we got out of the insurance company. The doctor's bill alone was $600. There seems to be no law that they can collect off you for doctor's bills, and the insurance companies very often won't pay that doctor's bill, and other expenses.

THE COMMISSIONER: What rate is paid in the building trade for insurance?

MR. DILLON: I think inside we pay 40 cents on the thousand. Outside we pay $2.

THE COMMISSIONER: It is not done on the pay-roll?

MR. DILLON: Yes, but it is separated. Outside work is more hazardous than inside. The outside costs us $2 or $2.25 a thousand, or something like that.

THE COMMISSIONER: That is very much in excess of what it is under the the Washington law.

MR. BANCROFT: The Washington law is .035 inside. It is less outside.

THE COMMISSIONER: Somebody was figuring up and, assuming that the Toronto Railway wage bill was $1,000,000, all it would pay under this act would be $365.

MR. WEGENAST: No, your Lordship, I think it would be $3,650.

THE COMMISSIONER: It is very hard to understand it.

MR. WEGENAST: I went into that thoroughly with the Commissioner over there.

THE COMMISSIONER: A professor of mathematics makes it a different figure.

MR. WEGENAST: The figure that one would gather from the actual reading must be multiplied by ten.

THE COMMISSIONER: That would be $3,650. It is 40 cents inside?

MR. DILLON: I think that is what it is. I could get it for you.

MR. WEGENAST: In this particular case, Mr. Dillon, how much of the money which was paid out either by you or the insurance company actually reached the injured workman?

THE COMMISSIONER: He can't tell. Ask the lawyer.

MR. DILLON: We paid $1,500 to the workman, and through a suggestion of Sir William Mulock's we paid him $5 a week, and paid his hospital expenses. Then he had several bills to the lawyers and different ones, and I don't think he got more than $500 or $700 out of that. We paid the court costs which were $300 and something.

MR. WEGENAST: Were you insured in the ordinary form of employers' liability insurance?

MR. DILLON: In the Ontario Accident.

THE COMMISSIONER: You were worse off in that case where you had a superintendent?

MR. DILLON: He is a first-class superintendent.

THE COMMISSIONER: If the three men had been working together then there would have been no liability under the present law, if it was the fault of one of them.

MR. MILLER: Supposing the workman was working on one building when you insured him and you moved him to another building, would you be compelled to reinsure him? Would your insurance be null and void if you took your workmen from one place and put them on another where there was another contract?

MR. DILLON: Oh no, we are taxed on the pay-roll. We have to keep a separate pay-roll for the inside and the outside men.

THE COMMISSIONER: It is a blanket insurance on your men when they are working outside?

MR. DILLON: Oh, yes.

MR. WEGENAST: May I ask Mr. Dillon a question: How far does that blanket insurance reach? Supposing it was an accident in which ten thousand dollars damage was done, does your policy protect you, or would it only protect you up to five thousand dollars?

MR. DILLON: I think it protects us up to $5,000. I am not just sure about that.

MR. WEGENAST: In order to get a larger measure of protection you must pay a considerably higher rate?

MR. DILLON: I don't know about that, I am sure.

THE COMMISSIONER: I was thinking of having somebody from one of these insurance companies here probably Friday night to explain how that works.

MR. BANCROFT: I would like to ask Mr. Dillon if he would have any objection to compulsory insurance if it covered all employers, similar to private insurance? If it would not cost any more would you have any objection to State insurance?

MR. DILLON: No, we have no objection to State insurance. I myself am in favour of that. We don't care who we pay the money to, and we would be better protected under the State than under the insurance companies.

MR. WEGENAST: Supposing the contributions were called insurance premiums and paid to the State Insurance Department on a basis similar to what you pay now to the insurance companies, but be compelled to pay that rate?

MR. DILLON: We are almost compelled now to pay it to protect ourselves. I don't think it would be sound business to carry it along unless we had some insurance. I know some firms have a protection of their own. They put away a certain sum of money, and they claim that is cheaper than insurance.

MR. WEGENAST: Would there be any widespread objection to that form of insurance, to the Provincial Government saying to each employer in the building trade, or whatever the trade might be, you must pay every year instead of your accident insurance your liability insurance rate, you must pay a premium rate of so much to the Government and we will protect you from liability for injuries to your workmen?

MR. DILLON: I don't think so. The only protection we get under the insurance now is they protect us in the case of a law suit. It is very unfair, I think, that way. They protect us against the case of a law suit, and very often they

won't give a man anything unless he does go to law. That is the only protection we have from the insurance companies. Of course they will pay up to $1,500 for one accident. I would like to see some law where we could get away without a law suit, so that the man that is hurt wouldn't have to prove anything. Let some arbitration board or somebody prove that for him, so that he doesn't have to get lawyers to prove it.

MR. WEGENAST: You have your men insured. You are not compelled to insure, but in your private insurance which you carry there is a large measure of waste as between you and the workman? The money which you pay out does not actually go to the workman?

MR. DILLON: Yes, that is it.

THE COMMISSIONER: Did you ascertain, Mr. Wegenast, in your enquiries about this Washington law, how they hope that these rates which are lower than the rates of insurance companies can provide a fund sufficient to pay for the losses, when the region of accidents is so much extended as it is under the Washington Act? That is to insure in the way in which the State insures, when these companies require double the premiums that they get now, or more than that?

MR. WEGENAST: My information is that the rates are not higher.

THE COMMISSIONER: Which?

MR. WEGENAST: That the rates under the Washington Act are the fair rates under such an act as in Manitoba and Alberta and Quebec. I have talked the matter over with a number of managers of the liability companies and they say these rates are fair average rates.

THE COMMISSIONER: It can't be so if Mr. Dillon's information is accurate, because they are higher than 40 cents.

MR. WEGENAST: I think the rate in the Washington Act is in the neighborhood of 3½ per cent. on the pay roll.

THE COMMISSIONER: That is 35 cents. The act does not read that way.

MR. BANCROFT: I think if you take outside structural work .065, if you multiply that by ten and say $65 a thousand, you get at the rate.

MR. WEGENAST: 10 per cent. on the pay-roll.

THE COMMISSIONER: That would put some men out of business.

MR. WEGENAST: Of course I am not advocating anything, but that has not been the experience.

THE COMMISSIONER: They told me at Cobalt that the insurance company charges them 2 per cent., I think.

MR. WEGENAST: That is only to carry the legal liability.

MR. BANCROFT: If you take .065 and multiply that by 10 and say it is $65 on the thousand instead of 65 cents, that would be enormous.

THE COMMISSIONER: That is $6.50 on the thousand?

MR. BANCROFT: Yes, that is better.

THE COMMISSIONER: I can get insurance in an accident company for $5 a thousand. I can't now, for I am past the age, but I did carry it for a time.

MR. WEGENAST: That is only against a limited number of accidents. I don't know what the basis of comparison would be.

THE COMMISSIONER: It covers some diseases as well.

MR. WEGENAST: Of course the intention under that Act was explained to me by those who were instrumental in having it passed and those who were at present administering it that the rates would be subject to adjustment, and that the insurance will cost exactly what it costs.

MR. GIBBONS: Your Lordship's occupation is not as hazardous as some.

THE COMMISSIONER: No, it would be higher no doubt for a brakeman on a railroad.

MR. WEGENAST: There is power under the Washington Act itself to adjust the rate. I may say this has been done now. The lumber manufacturers found that their rate was somewhat higher than the rate which they had been levying in a mutual society of their own, and under which they had worked out a scheme of compensation. They secured the consent of the State Department to carry their risk at their former rate, I think, without setting aside a capitalized amount to meet future payments; simply paying the annual payments which were due under the schedule of the Act, without setting aside the capital amount to meet each payment, and in that way they reduced their rates.

THE COMMISSIONER: I don't understand what that means, as to setting aside an amount?

MR. WEGENAST: The capitalized value of a capital injury if one may so call it. In the case of death it is $4,000, and when an accident occurs the sum of $4,000 is set aside during the year that the accident happened to meet all further payment.

THE COMMISSIONER: Set aside by them?

MR. WEGENAST: The Insurance Department. The Insurance Department that year levies a sufficient amount to set aside $4,000 for each case that has arisen.

THE COMMISSIONER: On the particular establishment or manufacturer?

MR. WEGENAST: On all the industries in that class.

THE COMMISSIONER: I do not so understand this act. Do you mean to say in addition to paying this rate upon the wage-bill they also pay for every accident?

MR. WEGENAST: When a man is killed an application is made for compensation. The sum of $4,000 is set aside out of the general fund to meet that, and that $4,000 is assessed upon the employers that year.

THE COMMISSIONER: Why should that be? They have paid the premium.

MR. WEGENAST: It is a matter of book-keeping. The sum of $4,000 is set aside, and that $4,000 is levied that year. Now, these lumber manufacturers obtained in this case, instead of setting aside that $4,000 for that year they would simply pay the pensions under the act, which were due for that year, amounting to about $240, or $20 a month for 12 months, so that that year's assessment would be $240 instead of $4,000.

THE COMMISSIONER: I do not see anything like that in this act.

MR. WEGENAST: The provision is there.

THE COMMISSIONER: The man is paying twice over, according to that.

MR. WEGENAST: No, that is the assessment for the year, and there is only one assessment.

THE COMMISSIONER: On the 1st of October or the 11th, whatever the date is, I pay my cheque, the percentage on the pay-roll, and surely that ought to protect me against any accident, whether fatal or otherwise, during the year.

MR. WEGENAST: Yes, but the premium is based on a capitalization of the injury instead of being based upon simply the annual payment. All the employers in the States must pay a rate to set aside $4,000 for each injury that arises for that year, and the rate is based on the assumption that that $4,000 will be set aside for the purpose. Where it set aside only $240 the rate of course would be very much lower.

THE COMMISSIONER: I do not see anything like that in the act.

MR. MILLER: Wouldn't that have the effect, Mr. Wegenast, of making the insurance much more expensive in the experimental stage than it would later on?

MR. WEGENAST: The insurance rate would gradually rise as the number of dependants increased, until such time as the older ones dropping off reached the same rate as the new ones coming on.

THE COMMISSIONER: If they are taking the place of an insurance company and paying the premium, I don't see why that doesn't pay.

MR. BANCROFT: I thought the definition of that was, when an employer has paid his tax he has paid his yearly contribution, and that goes into the Revenue Department of the State Insurance, and if there is an accident happens that year and it is a permanent injury, according to the mortuary tables of the United States $4,000 is the amount that is set against the permanent injury, and they set $4,000 against that injury, and say $20 a month for a year is $240, and five times that would be $1,200. You see that would go 15 years, which is the estimated life of the person that was injured. It is to set aside that amount for the purpose of guaranteeing the compensation as long as the person lived.

MR. MILLER: That is the idea.

MR. WEGENAST: I will deal with that in the brief that I expect to submit.

THE COMMISSIONER: Very well.

MR. BANCROFT: They set it aside to cover the compensation, according to the mortuary life tables of the United States.

MR. WEGENAST: I was under the impression that that amount was set aside. I haven't been able to lay my eyes on the section, but I am still under that impression.

THE COMMISSIONER: You see in that way the State ought to make a lot of money. This table is based upon the idea that it will pay for all the accidents, and if they get that besides that will be in addition.

MR. WEGENAST: It is not besides that. That rate is fixed on the assumption that it will be necessary to set aside that amount as a reserve to meet future payments, but if the act were framed in such a way that each year it would take care of that year's pensions or periodical payments, then the initial rate at all events would be much less. There is another provision in case of death or total disability, the monthly payment provided may be converted in whole or in part into a lump sum payment, not in any case to exceed $4,000, on the theory, according to the expediency of life, and so on, and that a monthly payment of $20 to a person thirty years of age is worth $4,000. The rate is worked out on a capitalized basis, the injury being capitalized, and a sufficient amount being set aside that will take care of it for the future. That is not the way the German system is worked out. The German system started in with the idea of paying only the year's pension and these pensions would gradually rise for a period of about 30 years, when they would reach the normal rate.

MR. BANCROFT: Before we close, I would like to say that the case we have presented we have built up on the best evidence we could procure. I believe the Friday night meeting would be better for labour in general to get here.

THE COMMISSIONER: There will be a meeting on Friday at eight o'clock, and I think I will ask Mr. Neely, of the Ocean Accident Company, to be here to explain how that insurance works.

MR. BANCROFT: If there is anything we can provide in the way of information we will be glad to furnish it.

FIFTH SITTING.

LEGISLATIVE BUILDING, TORONTO.

Friday, 29th December, 1911, 8 *p.m.*

PRESENT: SIR WILLIAM R. MEREDITH, *Commissioner.*
MR. F. N. KENNIN, *Secretary.*
MR. W. B. WILKINSON, *Law Clerk.*

THE COMMISSIONER: Are there any of the farming community here, or anybody who would like to speak on their behalf?

THE SECRETARY: I notice Mr. Waldron here.

THE COMMISSIONER: The proposition is by those who represent the employees that this act should be like the British Act, applicable to farmers, and also to domestic servants. The British Act as introduced by Mr. Gladstone accepted that, and it was apparently struck out while in the House of Commons. Have you any view upon that subject, Mr. Waldron?

MR. WALDRON: Well, I came rather to learn than to express any views of my own. I have been looking into the matter. I started in with the lawyer's assumption that we were getting on very well by progressive decisions fixing the law. Later, however, I looked up some reports published by the International Committee in Rome giving a synopsis of the legislation in various countries in Europe on this question as affecting farmers, and I was surprised to see how far it had gone. They have gone step by step, irresistibly apparently, and it appeared to me that it was a very serious question for this Province. There is first the question whether the farmers will be disposed to entertain legislation of this kind favourably, and as to that I can only express my own opinion. I should think they would be jealous of it. I should think when the matter was discussed they would regard the proposals made by these gentlemen, which I have seen in the daily press, as class legislation, as indeed it appears to me to be. It appears to me that the manufacturers are seeking to distribute evenly over the community a burden which sometimes sits heavily upon individuals, and that the labourers are seeking to secure more certain compensation and more compensation than they are getting now. I should think it would appear to the farmer when he thinks the matter out that the burden both of compensation to himself and compensation to his own labourers would fall wholly upon him, and may have important economical results. It may tend perhaps to increase the difficulties of the farm labourer. It is likely to be followed, logically followed, by sickness and old age insurance, which would appear to rest on the same grounds or sentiments, and thus it might intensify the movement of labourers from the land to the town, which is now becoming in my view the most serious public question that we have. Perhaps we exaggerate sometimes, it appears to me, the grievances of labour. Labour and capital seem to think they occupy the whole field, and that there are no other interests in the country but theirs. But there is the producer on whom they shift their burdens and whose profits they continually struggle to acquire and divide as unequally as they can. We are doing in an unorganized way something along the same line. We have our institutions of charity and of relief, to which municipalities and individuals, and governments contribute, and so we take care of the unfortunate. We are relieving them now

perhaps to a large extent by such legislation, but we may in the working out of these things economically and socially merely create other social difficulties. However, about that I speak with great modesty because it would need a very close study such as might be facilitated by the report you will make, sir, to lead one to just conclusions. However, I should fancy the farmer would regard the whole thing with suspicion and jealousy, and not without just cause. If he is well informed and if he has good journalists to advise him as to the reasons. However, I am greatly interested myself in the investigation, and I only regret that I don't know more about it. It must be manifest to everyone that the grievances of the labourer who is injured in his employment are but a very very small portion of the griefs and woes of society, that appeal to all reasonable sentiment and fine feelinged men, and if we mend one we must undertake the mending of others. The lawyer who works, as these gentlemen use the phrase, with all the risks of employment, takes typhoid fever and dies, leaving a wife and little children, is entitled to be compensated by society when it is put, as it appears to be put here, upon mere grounds of fine feeling and sentiment; because the law puts it on the grounds of the duty of one man to another, and of negligence, and the like. I have no doubt you have had brought to your attention the laws in the various European countries.

THE COMMISSIONER: A great many of them.

MR. WALDRON: I came across a little bulletin by the Bureau of Economical and Social Intelligence, and I have three volumes here which contain information on this point. It is published in Rome in three languages.

I would be much interested to know what the view of the labourers is as to the scale of compensation? I have not seen in the press anything as to that.

THE COMMISSIONER: What they have stated is that the scale of compensation in England is too low, and they suggest that the scale should be raised here in proportion to the difference between the rate of wage here and in England. They have offered to submit figures of that at a later stage. They have submitted none up to the present.

MR. WALDRON: I thought that was the crux of the question probably. I see in one of these volumes in France an agricultural labourer receives in the case of death, or his representatives receive in the case of death, 2,000 francs for an adult male, and 1,000 francs for an adult female. They classify compensation into death and total incapacity, or absolute incapacity, and two other degrees of incapacity. There does not seem to be any provision for the sprained back and pain and suffering cases such as we have before our courts here, where men suffer minor injuries leaving no permanent injury. The compensation in Italy and Germany and Belgium appears to be small compared with what I thought labourers could ask for here.

THE COMMISSIONER: Assuming you start with the proposition that the risks that an employee is under in his employment should be compensated for when they result in accidents, by his employer, how logically could you distinguish in the class of employer without making it class legislation? If a carpenter employing two men and one of his men is injured must pay, why must not the farmer pay if he has two men and one of them is injured? I am putting it logically?

MR. WALDRON: Oh, I don't see any logical difference.

THE COMMISSIONER: It struck me the only thing that could be said was that practically in this country we had no farming on a large scale with machinery and that sort of thing. Most of the farmers in this country employ not more than one man, or sometimes two.

MR. WALDRON: In most cases none at all.

THE COMMISSIONER: Well, of course he is then in no trouble. The risks of that employment are not at all as great as in industrial employments, such as manufacturing.

MR. WALDRON: Somebody made the statement here in a recent meeting that insurance companies say the risks are greater on the farm, and on reflection I thought that was probably true. I looked at the report of the statistical registration of births and deaths, and there are 264 men die from accident on the farm as compared with only 459 in the whole Province.

THE COMMISSIONER: The farming community are very much larger numerically.

MR. WALDRON: No, the farming population has fallen very much below the urban population.

THE COMMISSIONER: I didn't think that was so.

MR. WALDRON: Oh yes. that is so. The percentage is about 40 to 60, I think. That is what is pointed out by those who have studied the matter. That can be readily verified.

THE COMMISSIONER: In the case of a farmer employing one man of course no question of common employment could arise, and even if he had two generally the farmer himself is taking part in the operation, and if an accident happened he probably would be responsible at common law.

MR. WALDRON: I speak with diffidence about that. The farm labourer has not the benefit of the legislation.

THE COMMISSIONER: But supposing a farm labourer is injured by machinery that is supplied by the farmer, then it would be almost a clear case of common law liability.

MR. WALDRON: Yes. In those foreign countries I see they introduce the farm labourer benefits. They applied it first, I think, in France to labourers employed on the farm in working farm machines propelled by power. Then in a subsequent act it is extended to labourers engaged in forests, and so on. It gradually creeps in.

THE COMMISSIONER: If this thing were being discussed in the House by those who represent farming communities I fancy they would not look upon it favourably. In a discussion a case like this was put: A farm labourer is working about the stable and a horse kicks him and kills him; nobody is at fault, and nobody knew about it. Under the British Act there was compensation to be paid. That would probably mean ruin to that farmer.

MR. WALDRON: Exactly. You must bear in mind the farmer's economic condition. If you cut out the mere legal bearing of being an employer and owning land, in the great majority of cases he is in the same class as the labourer, economically, and he can bear no additional burden. He has no power to add the cost of compensation to his prices, because his prices are made in the world's competition, and therefore he is jealous about anything that imposes a further burden upon him.

THE COMMISSIONER: Your arguments meet with those of the mining people. They claim that they ought not to be in the same position as the manufacturer because the world governs the price of silver, and they cannot raise it.

MR. WALDRON: It is unquestionably a strong argument. The manufacturer is in a happy position, for he has a high tariff in this country.

THE COMMISSIONER: I thought you thought that was the worst thing that could happen. that they would be better off in an open market?

MR. WALDRON: I didn't think it was the worst thing for the manufacturer,

but ultimately it would be the worst thing. But he is in a happy position when the demand is rapidly increasing with the incoming dwellers. He can name his own prices within the limit of the tariff advantage. The farmer has no such advantage.

MR. KINGSTON: Is there not this rather serious difficulty which will confront you in any proposed legislation of this class for the farmer? Probably, for example, we will say half the farmers do not employ labour at all. Supposing the proposed State compulsory insurance were introduced and it were made to apply to the farmers, it would probably make all these farmers contribute according to the schedule adopted in the act.

THE COMMISSIONER: It would be only those employing labour.

MR. WALDRON: In France or Italy it says it does not apply to the farmers who employ less than three men, I see, in one case.

MR. KINGSTON: Some such provision would require to be made because a great many farmers only employ a man, when they do employ labour, for a few months in the year. The most of them get along with themselves and their sons.

THE COMMISSIONER: I fancy the principal difficulty would not be with the Commission, but in the House. I doubt very much that any proposition to bring the farmers under this act would meet with approval. I recollect when the original act was introduced which excludes agricultural labourers and domestic servants, there were very strong arguments all over the House against bringing them in, and some very peculiar arguments were adduced.

MR. WALDRON: I feel quite sure about it.

THE COMMISSIONER: However, we will have to propose what is right and let the legislature do what they think best.

MR. KINGSTON: There has been no demand from the farmer or the farm labourer for this legislation.

THE COMMISSIONER: There is Mr. Bancroft, and Mr. Doggett, and Mr. Meredith.

MR. MEREDITH: I don't represent the farmers, but I thought when it comes up in the House that the farmers' representatives would be more liable to pass the act than they would be if they weren't included in it. I don't know whether Mr. Waldron meant that the farmers who do not have more than two or three working men would not have to pay towards this legislation, or whether they would not get the benefit of it?

THE COMMISSIONER: I think you will find it is not the farmers, but the men who want to bring the farmers in are the manufacturers.

MR. WALDRON: That is how it appears.

THE COMMISSIONER: If they could bring them in of course they would get a much easier measure.

MR. KINGSTON: I would take it that that would hardly be so, because if you are going to prepare a schedule you have got to prepare a farmer's schedule and a manufacturer's schedule.

THE COMMISSIONER: The farmer believes in keeping things down all round.

MR. KINGSTON: If you take the Washington Act as a basis you would simply add another schedule to the act.

THE COMMISSIONER: I do not think you understand the farmers quite as well as I do, or the farmers' representatives.

MR. KINGSTON: I lived there for some years.

THE COMMISSIONER: I think Mr. Wegenast, if he was at confession, would tell us. I don't want him to confess.

MR. WEGENAST: I am not going to confess, but I expect to have a state-

ment here in a few minutes, if the time is opportune to give a statement, which I made before the Bar Association.

THE COMMISSIONER: I see Mr. Neely here, and we wanted to get a little information from him on the subject of accident insurance.

Where a manufacturer insures his employees upon what is the rate based? Has it any regard to the wage-roll?

MR. NEELY: Yes, it is based upon the pay-roll.

THE COMMISSIONER: The average pay-roll of the year, or how do you get at it?

MR. NEELY: The total pay-roll for the year.

THE COMMISSIONER: Have you seen the Washington schedule?

MR. NEELY: I don't know that I have, sir.

THE COMMISSIONER: It only includes hazardous employments. Mr. Wegenast, you said that that .035 meant what?

MR. WEGENAST: The word percentage is misleading. The word fraction or decimal is better. It is .035 or .065 of the pay-roll.

MR. WALDRON: In Denmark there is compulsory insurance for all agricultural labourers not exceeding a certain amount. In Italy only the agricultural labourer with machinery and the forestry workmen are included.

THE COMMISSIONER: Will you please explain what you learned about that, Mr. Wegenast?

MR. WEGENAST: It doesn't make any difference which you multiply the pay-roll by, .065 or 6½ per cent.

THE COMMISSIONER: But your accident rates are based upon accidents arising from the negligence of the employer or somebody in superintendence. This is much wider, covering accidents arising from any cause.

MR. NEELY: With a Compensation Act?

THE COMMISSIONER: Yes. There is compensation where the workman in certain cases brings the injury upon himself. What is your experience with regard to claims that are made, whether there are many that are exaggerated or many that are without foundation?

MR. NEELY: Under Compensation Acts?

THE COMMISSIONER: Under the system that is in vogue here with insurance companies?

MR. NEELY: Well, we deal with cases in Ontario and also in British Columbia and also in Alberta. In the latter two Provinces they have Compensation Acts, where in Ontario we have the Employers Liability Act only, and the common law, so that we have rates varying in each Province. In the Compensation Act Provinces not all the claims are made under the Compensation Act. A very large proportion is still made at common law and for negligence. Generally the more serious cases are made at common law. The chief reason for that we find is that there is a speculative chance for larger sums, and the act gives an alternative in the event of failure. It encourages speculation, and the man has nothing to lose by trying at common law.

THE COMMISSIONER: Can he make an alternative claim?

MR. NEELY: The Provinces are somewhat different, but they may award compensation under the act, and it has generally been done. If there was no such alternative, and we have one Province where it does not exist, Manitoba, we find a great many more claims made under the Compensation Act, and there is less litigation and less disputes, of all kinds.

THE COMMISSIONER: Well, what are the principal difficulties you have in

dealing with claims? Is it as to whether an accident for which you are responsible has happened, or whether the man has really been injured, or the extent of his injuries?

MR. NEELY: Well, the first real essential with us is to know that the man has been injured in the occupation. Then it becomes solely a question of the amount to which he is entitled. In dealing under the Compensation Acts we have very little difficulty in arriving at those amounts, but in dealing with a case at common law it is quite different.

THE COMMISSIONER: Do you find many fraudulent claims made?

MR. NEELY: If you mean by fraudulent no foundation in fact, we don't have many of those.

THE COMMISSIONER: Exaggerated claims.

MR. NEELY: A great many.

THE COMMISSIONER: Are there any difficulties in the way of getting a prompt enquiry and determination as to the extent of the injury?

MR. NEELY: We do not find that very difficult in the larger centres where we have facilities for making those inquiries. In the more remote sections the reports are very often slow in arriving, and we have had a few accidents we do not understand, and delays occur.

THE COMMISSIONER: Is the British Columbia Act modelled on somewhat the same lines as the British Act?

MR. NEELY: Almost entirely.

THE COMMISSIONER: What difference is there in the rate for that Province in this regard?

MR. NEELY: In the different trades it varies considerably, but I should say, speaking generally, perhaps 50 to 100 per cent. more, there.

THE COMMISSIONER: I was told that the rate among the miners was 2 per cent. on the pay roll. It seemed to be a flat rate of 2 per cent. charged on all the mines at Cobalt. Mr. Dillon who is a builder here and contractor says, I think, he pays $2.10 on the hundred for outside employees. That is carpenters working at outside work, on scaffolds, and that kind of thing. It is much less for men who are employed in the shop.

MR. NEELY: In mines in Ontario it would be $2, and carpenters it would be $1.50.

THE COMMISSIONER: Whether they are employed indoors or out?

MR. NEELY: No, outdoors. It is a great deal less indoors. I think there are very few that insure for carpenters employed in the shop.

THE COMMISSIONER: Are your rates often re-adjusted?

MR. NEELY: As frequently as we can find reason for it.

THE COMMISSIONER: Do you often find reason?

MR. NEELY: Oh yes, adjustments are going on constantly in certain classes.

THE COMMISSIONER: Do you take any farmers' risks?

MR. NEELY: No sir, they don't insure so far as I know.

MR. WALDRON: Why?

THE COMMISSIONER: They don't want to insure I understand Mr. Neely to say?

MR. NEELY: I don't think they ever have insured in this country.

THE COMMISSIONER: In British Columbia does the compensation extend to farm labourers?

MR. NEELY: I think not.

MR. KINGSTON: That is eliminated from all the acts? I do not think there is any act in the Provinces that includes farm labourers.

MR. WEGENAST: I have a schedule here, Sir William, that I would like to put before Mr. Neely, with your permission?

THE COMMISSIONER: Certainly. I would be glad if any one who is interested here would ask any questions of Mr. Neely.

MR. WEGENAST: That gives the rate on certain industries in Quebec and in British Columbia before and after the passing of the liability law.

THE COMMISSIONER: According to this in 1907, under the Employers' Liability law, bakers and biscuit factories were seven and a half to twelve and a half cents. In 1908 under the Compensation Act it is $1.12½.

MR. WEGENAST: Yes.

THE COMMISSIONER: Bakers and biscuit factories under liability law 17 cents; British Columbia under Workmen's Compensation 89 cents; Quebec $1.37. Brick-making 42 cents under liability law; $1.26 in British Columbia under Workmen's Compensation; $2.10 in Quebec. Carpenters $1.50 under liability law; $2 in British Columbia; $5 in Quebec. Stone quarries $2.10 under liability law; $4.06 in British Columbia under Workmen's Compensation, and $6.25 in Quebec. New York; carpenters under liability law $1.75; $5 under compensation, and $1.13 under Pennsylvania Liability Law. Bridge building is pretty hazardous, steam railroads are pretty high.

MR. WEGENAST: I understand from conversations with insurance men that the insurance rates for Employers' Liability insurance would probably be increased by fourfold under such an act as that of British Columbia or Quebec.

THE COMMISSIONER: Does not that seem to indicate that unless they readjust the figures in the Washington Act they are going bankrupt?

MR. WEGENAST: They have practically the same rate. These rates are in some cases higher. That is, the Employers' Liability rates there are higher than the State rates.

I would like to have Mr. Neely express his views as to whether that is correct or not. The general statement that I have heard is that the rate under a liability law such as that in force in British Columbia would be four-fold the present rate in Ontario approximately. It is difficult to strike an average I know, but would you say that was correct?

MR. NEELY: I think that is incorrect, generally speaking, and I am quite sure it would be wrong with the Compensation Act if it had certain limitations. The one great reason why the British Columbia rates are so much higher than the Ontario rates to-day is that there is this alternative—the man is entitled to his compensation in any event, and he first tries at Common Law or Employers' liability, and puts the employer or the insurance company, which is the same thing, to a very heavy expense of litigation. It is practically impossible to settle the claim for a reasonable sum with the lawyers. They know they are going to recover a certain measure of damage anyway, and the case has to be defended and then finally pay in the end. Now, in Manitoba, that hardship is eliminated, and the rates we have begun with the Manitoba Act are very much less than British Columbia, and there is every evidence that as soon as we have a little more experience we can reduce them still further, and it appears so far as we can see now that under the Compensation Act in Manitoba the rates will not be higher than they are in Ontario to-day.

MR. WEGENAST: You mean to say the rates in Manitoba under the new act

where compensation is given for practically all accidents unless they are due to serious and wilful misconduct of the injured man—you say the rates in Manitoba will not likely be any higher than in Ontario to-day?

MR. NEELY: As far as we can see at this time.

THE COMMISSIONER: You see in Ontario there is still the common law liability. That is probably what is in Mr. Neely's mind.

MR. NEELY: Yes.

MR. WEGENAST: I don't undertake to set up my knowledge against Mr. Neely's, but I wouldn't like to leave that statement unquestioned. However, I am not prepared to challenge it now. The same thing would not apply however in Quebec.

MR. NEELY: That is on an entirely different basis. The Quebec Compensation Act has departed from the lines on which all the British Compensation Acts originally have been drawn. Each Compensation Act in Canada, aside from Quebec, has the privilege of capital settlement. There are absolute limitations, except in one Province. There are no annuities or anything of that sort. In Quebec, the whole basis of the act is annuity and it is impossible to make a capital settlement under the law. A man having lost any part of his anatomy, no matter how small, is less than a whole man, and therefore as long as he lives is impaired, and on that basis is entitled to compensation.

THE COMMISSIONER: Annually?

MR. NEELY: It is payable quarterly.

MR. WEGENAST: There is no difficulty under the Quebec Act, though, that the employer is subject to any common law liability, and besides the liability under the act is lower than that under the British Columbia Act, if my memory serves me rightly, and lower than that of the Manitoba Act, I think.

What I am getting at is this schedule which shows for instance in the brick-making industry, under the laws we have now, practically the rate was 42 cents, and under the Compensation law in Quebec it jumped to $2.10. Now, I would like, if I can, to have this schedule verified or otherwise. This is a schedule drawn by Mr. Dawson, who is a consulting actuary in the city of New York, a joint author with Mr. Frankel of a work on compensation, and it is only in the way of verifying that schedule that I am raising the point.

MR. NEELY: I cannot be sure from memory that that is the exact rate, although it looks as though it might be.

MR. WEGENAST: And so on down the list. The carpenters were raised from $1.50 to $2 in British Columbia, and to $5 in Quebec?

MR. NEELY: Yes.

MR. WEGENAST: Blast furnaces from 40 cents to $1.36 in British Columbia, and $3.90 in Quebec; glass factories from 42 cents to $1.26 in British Columbia, and $2.10 in Quebec, the largest being quarries in which the rate raised from $2.10 to $4.06 in British Columbia, and $6.25 in Quebec. Those rates look fairly reasonable to you from a liability insurance standpoint?

MR. NEELY: Well, the Quebec rates as a whole are greater than in British Columbia, but I didn't recall that any rate was so very much greater as appears here.

MR. WEGENAST: It would appear there, though, that the estimate that the present rate would be multiplied by four is fairly reasonable.

MR. NEELY: Not in all classes.

MR. WEGENAST: As nearly as you can strike an average, of course?

MR. NEELY: It is difficult to strike an average, for this reason, in Quebec

I mean, that in certain industries the accidents that occur are more apt to cause permanent disability than certain other industries, and where we have had to deal with the rates have increased very much greater than in others. For instance, in the stamping and pressing of metals with dies and such things where fingers are lost, and hands are lost, and in rolling mills and works of that sort, the risks proportionately have increased much more than in certain trades where injuries are temporary and the people recover from them.

MR. WEGENAST: Then, I suppose in industries like the textile industries where the injuries are usually of a minor character, and where, under the common law, or such law as we have here, there is little chance of recovery, the ratio of increase would be much larger.

MR. NEELY: Yes, for the reason that in like hazards, in boot and shoe manufacturing and things like that, under the common law conditions a comparatively small percentage of accidents result in claims, and under a Compensation Act a very large percentage, as high sometimes as 90 per cent., result in claims, and that causes a much heavier increase in the rate.

MR. WEGENAST: Then in those industries where the hazard is great and where there is recovery under the present law in Ontario in a larger proportion of cases, the ratio of increase in the rate would not be so large?

MR. NEELY: Exactly.

MR. WEGENAST: The rate is already high and would not raise very much more?

MR. NEELY: In the bridge building class, which I think is the highest class, the rate in Quebec was actually reduced under this Act.

MR. WEGENAST: To what do you attribute that?

MR. NEELY: For the reason that when accidents occur in the bridge building trade they are very very serious in any event, and their claims are made in large amounts—have to be made.

MR. WEGENAST: That is under the common law the recoveries are for large amounts, and now the amounts are reduced?

MR. NEELY: It is now on the basis of half the wage, and it has acted as a relief.

MR. WEGENAST: In these more hazardous occupations, for instance, quarries, where the rate under the liability law now is apparently about $2.10, it is likely that the rate would rise as high at least as in British Columbia, where it is $4.06, practically double, or perhaps even go to what it is in Quebec, $6.25. It would be very likely in a hazardous occupation to double?

MR. NEELY: That would all depend upon the text of the act.

THE COMMISSIONER: The amount of the compensation. The limit of the compensation?

MR. NEELY: No, sir, not entirely, if the workman was required to elect.

THE COMMISSIONER: But assuming he must get compensation and that only. That is what I understood you to say, that if that were the law in this Province you did not think the rates would be much increased?

MR. NEELY: Not a great deal, I think.

THE COMMISSIONER: Now, if it is a fair question to ask you, supposing you were asked to have a monopoly of the business on that schedule, could it be profitably run and all employers of labour brought within it?

MR. NEELY: It would require more of an actuary than I am to answer that question.

MR. WEGENAST: That confirms what I said about the rate. Of course they are set down there in percentages, 6½ per cent. That is the form of the report that is put in under the Washington Act.

MR. NEELY: In fact, I doubt if any one could answer such a question where the rates are constantly changing, as experience shows they should.

THE COMMISSIONER: I thought you said, Mr. Neely, looking at the same thing I showed you, that it wasn't very different from the accident insurance company rate?

MR. NEELY: Yes, but I didn't know to what sort of law this applied.

THE COMMISSIONER: There is the common law.

MR. WEGENAST: It depends on the amount of the benefits.

MR. NEELY: It depends on the benefits, the limitations, and the various conditions in the act which will make for the cost of it.

MR. KINGSTON: Might I make this suggestion, Mr. Neely, that most of your liability rates applying to this Province are based upon the statutory limit of $1500.00?

THE COMMISSIONER: Or three years' wages?

MR. KINGSTON: To the ordinary rate I think they apply the limit of $1500.00, except in certain cases where the higher rate is paid if the applicant for the insurance wants the increased indemnity. That is so, is it not, Mr. Neely?

MR. NEELY: The basis rate is $1,500.00.

MR. WEGENAST: In one accident, or one person?

MR. NEELY: For one person.

MR. WEGENAST: What is the limit for any one accident?

MR. NEELY: $10,000.

MR. WEGENAST: Even if a man wants to have that limitation removed, and if the limitation was $20,000, what increase will there be in the rate?

MR. NEELY: From $1,500 to $20,000.

MR. WEGENAST: Supposing the limit is now $10,000, and suppose a man wants a policy which will raise that limit to $20,000, what increase will there be in the rate?

MR. NEELY: It would depend upon the industry first.

MR. WEGENAST: For instance, in quarries?

MR. NEELY: From memory I cannot say, but I should think about 15 per cent.

MR. WEGENAST: I understood the increase was about 100 per cent.

MR. NEELY: No, it can't be.

MR. WEGENAST: I understood it was the practice to charge twice the rate when they raised the limit. Perhaps I am mistaken. Perhaps I should say the $1,500 limit, if that is raised to $3,000 in the case of each person, would the rate be doubled then?

MR. NEELY: That would be about 25 per cent. additional.

MR. KINGSTON: I don't suppose many of the companies would increase their total liability above $10,000?

MR. NEELY: Well, it would depend upon the industry.

MR. WEGENAST: They would reinsure, I suppose.

THE COMMISSIONER: In your company, Mr. Neely, how many cases have you where your limit of $10,000 has been passed? Has there been one?

MR. NEELY: Yes.

THE COMMISSIONER: Any more than that?

MR. NEELY: I don't think so.

MR. WEGENAST: I don't suppose you would be prepared to say what was done in that one case? But it has come to my notice that cases of this kind happen. In an industry in the city of Toronto where a fire occurred sixteen persons were injured, and the liability company refused to settle the claim. I don't know what company it was. The employers settled the claim on the best basis that they could get, and after considerable dispute with the insurance company finally got a settlement from the insurance company on the basis of one half of what they had paid.

THE COMMISSIONER: How does that bear upon it unless the amount exceeded $10,000?

MR. WEGENAST: Now, the question that arises there, and that I suppose will be raised sooner or later, is the disposition of the company and its policy where the legal liability is not strictly defined. Perhaps the matter can be brought to a point in this way. Is it the practice of liability companies to hold themselves and their responsibility to the strictly legal liability of the employer, or do they consider their insurance covers more than the legal liability of the employer?

MR. NEELY: That is all they pretend to insure.

MR. WEGENAST: Then if an employer wishes to have his men insured for something further than the mere liability under the law, if he wants his men insured against accident, he would have to pay a higher rate?

MR. NEELY: It would be impossible to insure a man against accident. We only attempt to insure an employer against loss on account of the accident.

MR. WEGENAST: Against his liability to pay compensation?

MR. NEELY: That is all. We couldn't prevent the accident.

MR. WEGENAST: I am not speaking of that. You cannot prevent a death. In insuring a man's life you don't assume that, but what I mean is, suppose the employer is not legally liable you do not consider yourselves liable to pay the claim. You put yourself in the place of the employer?

MR. NEELY: Exactly.

THE COMMISSIONER: Does that mean you recognize no moral claim?

MR. NEELY: I am speaking of our contract, sir. Our contract is to insure the employer against legal liability.

MR. WEGENAST: I have a statement here if at any stage you care to hear it. It bears directly on that question, and I would like to ask Mr. Neely some questions about it. It arises directly out of this. There is a page or two leading up to it that I would almost have to read.

THE COMMISSIONER: Very well.

MR. WEGENAST: Practically all workmen's compensation legislation is an effort to embody what is called the theory of 'professional risks.' Under this theory the cost of human wear and tear is supposed, like the cost of machinery, raw material, etc., to be thrown upon the industry and included in the price charged to the consumer for the product of the industry. When we come to examine the different conpensation systems of the world we find three distinct methods of applying this theory. These methods may respectively be termed the individual liability method, the collective liability method, and the State liability method. Every system in the world can be classified under one or other of these heads.

Under an individual liability system the liability to compensate the work-

man is thrown upon the individual employer as an element of the relationship of employers and employees. A term is imposed upon the contract of employment by which the employer assumes an obligation, more or less extensive, to indemnify the workman for injuries received in the course of, or in connection with, the employment. The injured employee looks for his relief to his employer, who thus becomes an individual insurer of the workman against injury. The principle of individual liability is illustrated in the English Workmen's Compensation Act of 1897 as extended in 1906, and in the Acts which are now in force in seven of the nine provinces in Canada, including the Province of Quebec. I am aware that the act of the Province of Quebec was copied to a large extent verbally from the law in force in France, under which a State guarantee system is set up; but by the omission of the provisions of the French law respecting the participation of the State, the Quebec Act was made merely a replica of the English Act couched in different phraseology. The English system has also been copied in other portions of the British Empire and in a number of States of the United States. In all these jurisdictions employers within the scope of the laws are required, regardless to a very large extent of questions of fault, to compensate their employees for injuries received by them in the course of their employment. Employers are, of course, permitted, and in some cases encouraged, to insure themselves against their liability for compensation by some form of insurance.

Right here, let me point out a vital distinction between the two classes of insurance, a consideration of which is involved in any discussion of the subject of workmen's compensation. There is, on the one hand, *accident* insurance, and on the other *employers' liability* insurance. A great deal of confusion in discussions of the subject is due to a failure to distinguish the two types of insurance, and superficial theorists who have advocated the so-called voluntary insurance system as against the so-called compulsory insurance system, have argued that the employer who finds himself under the heavy obligations imposed by an individual liability law will almost inevitably resort to insurance. This is in one sense true, but the insurance which the employers thus effect is not of a type which affords any great protection to the workman. It is true that some employers under these systems take out real accident insurance policies for the benefit of the workman injured or the family of the workman killed. Such insurance may cover the risk of injury in the course of employment only, or may be extended to any accidents to the workman regardless of the occasion.

I understand that to be the case, Mr. Neely. There is a form of policy which I think they call a workman's collective policy, under which the company assumes not only the legal liability of the employer, but also assumes the burden of insuring the workman against all accidents. That is what I want to get at.

MR. NEELY: We have various kinds of policies.

MR. WEGENAST: That is not, then, a strictly liability policy?

MR. NEELY: We call it a workman's collective, meaning a collective accident policy.

MR. WEGENAST: Then what I wanted to get at was the difference in the rates of insurance. What difference would you make, for instance, on the payroll of a stove foundry, between insuring the men against all accidents, and insuring only the employer against liability to pay compensation?

MR. NEELY: Well, the difference would rest entirely upon the nature of the legislation under which we had to deal with the liability case. The terms of an

act, the common law, and such things, all govern the rates of liability insurance. The physical hazard alone governs the rate of personal accident insurance.

MR. WEGENAST: What I want to get at is, there wouldn't be anything to prevent your company issuing a policy. I suppose——.

MR. NEELY: I would be very glad to give you an idea, but it is entirely impossible until one knows the law about which you are speaking.

MR. WEGENAST: Take under the present law in Ontario. What ratio would there be between a workman's collective policy, under which the workman is insured against accident, and a liability policy under which the employer is insured against liability.

THE COMMISSIONER: You eliminate one of the important features of our act, that it is only in the case of negligence that the employer is liable.

MR. WEGENAST: I understand that, but I am trying to get some sort of basis to build on. I don't want to press the matter.

MR. NEELY: Well, in different occupations or industries of course that difference varies. Take the carpenters' and builders' trades, my recollection is where $1.50 is the rate in Ontario for employers' liability, the collective policy is about $2. I am just speaking from recollection. That is in that trade.

MR. WEGENAST: What I have read, I may say, your Lordship, is what I read before the Bar Association yesterday. The Association, I believe, passed a resolution to pass it on to your Lordship, but I protested against that for reasons that are probably apparent. I would not have brought it up now if it was not that the subject had been opened up. I go on to say that it is true that some employers under these systems take out real insurance policies for the benefit of the workman injured or the family of the workman killed. "Such insurance may cover the risk of injury in the course of employment only, or may be extended to any accident to the workman regardless of the occasion."

These collective policies would not cover the man who happened to be injured putting up a set of pipes outside?

MR. NEELY: If they paid for it.

MR. WEGENAST: That would be a third policy?

MR. NEELY: No, a similar policy with a higher rate.

MR. WEGENAST: "The essential feature of this class of insurance is that it is the *workman* who is insured. The large bulk of employers, however, for reasons which are quite apparent, insure, not the workman against accident but themselves against liability for accident. And this practice has occasioned the development, in all jurisdictions where the compensation legislation takes the individual liability form, of a system of employers' liability insurance. Under this type of insurance the employer insures not the workman against accident, but himself against liability. Liability insurance bears to accident insurance a relation analogous to that which would exist between a policy under which a man should insure himself against legal liability for non-support of his wife and children, and an ordinary accident or life insurance policy."

THE COMMISSIONER: What connection has that?

MR. WEGENAST: The insurance company in the case of liability insurance assumes absolutely no moral obligation, as you have suggested, sir It simply insures, and stands in the place, and subrogates itself to the position of the employer, and takes up the burden that he would otherwise have borne, and takes up the defences such as they may be that the employer has, and I thought it might be well to emphasize that, and get Mr. Neely to confirm it.

THE COMMISSIONER: He has already said that.

MR. NEELY: I would like to answer that a little more explicitly since the question has been asked. The insurance company sells a certain contract which is the kind of contract that the purchaser wants to buy. Now, if the purchaser being an employer wishes to cover these moral obligations, these charitable obligations or humanitarian obligations, the company is quite prepared to issue him such a contract, but when the employer tells us that he is not willing to pay for these things at all, that he wants the bare price of his legal obligation, we give him that price and we give him that contract.

THE COMMISSIONER: Would it make any difference supposing a case of this kind. Take this International Harvester Company with 2,500 to 3,000 men, and they came to you and asked you to write an accident policy on 3,000 men. Would your rates be any cheaper than if I came, being in the same employment?

MR. NEELY: Being a larger risk?

THE COMMISSIONER: You get 3,000 risks in one case. Would the rates be much lower?

MR. NEELY: If we were writing personal accident insurance it would. On the collective insurance basis it would not, because the expense rate contemplates the same on both. Where individual policies are written on those 3,000 men the work attendant upon it, and so on, is very extensive.

MR. WEGENAST: There is another feature of the rates I would like to ask about, Mr. Neely. The origin of liability insurance, so far as Anglo-Saxon jurisdictions at all events are concerned, I think was after the Chamberlain Act of 1880.

MR. NEELY: Yes, it began in England about that time.

MR. WEGENAST: And your company, being one of the largest companies in England, I suppose took it up at that time?

MR. NEELY: Yes.

MR. WEGENAST: Now, what do you say as to the correctness of the basis of rates on which you started, and the alterations which you found necessary in those rates as you gained experience under the act? I don't want to put it in the form of a definite question.

MR. NEELY: Do you mean, were the changes upwards or downwards?

MR. WEGENAST: Did you find, for instance, that you could really strike a proper rate at first?

MR. NEELY: It was all speculative at first.

THE COMMISSIONER: Of course they went on the high side.

MR. WEGENAST: Is that a fact, Mr. Neely?

MR. NEELY: The records of the companies have shown that they have generally been on the wrong side.

THE COMMISSIONER: At the start?

MR. NEELY: Even with the increasing rates they have not got them high enough.

THE COMMISSIONER: Not making any money?

MR. NEELY: One of the very large companies in the States doing a business of over $4,000,000 of premiums annually showed a net underlying loss last year of over 3 per cent.

THE COMMISSIONER: I would like to know how many law suits that company has in its solicitors' hands?

MR. NEELY: Something over 4,000.

THE COMMISSIONER: That is where the trouble comes.

MR. NEELY: That is exactly what I tried to say in the beginning. It is the enormous waste that is caused to the insurance companies or the employer, being

the same thing, through the misunderstanding of the act, and through it being impossible for the workman and the employer to agree. That is what causes these high rates and these high losses. If a Compensation Act were enacted giving reasonable benefits to the workman that are clearly defined, having reasonable limitations, and making it alternative if he chooses to make his recovery at common law he forfeits his right to compensation, there would be a great reduction in the cost and no hardship to the workman.

THE COMMISSIONER: Why should not the odd workman here and there that might have a common law action give up the right for the sake of the many getting a better compensation?

MR. NEELY: I don't know that it is necessary that he should be required to give it up before the event, but after the event it does not seem a hardship that he should be required to determine then how he is going to proceed to recover.

THE COMMISSIONER: You see he has certain rights at common law. Now, if you give him additional rights that he would not have, giving him the right to recover where he could not recover at all at common law, would it not be just in return to ask him to surrender his common law right?

MR. NEELY: I think where that has been tried very serious objections have been found to it, on the ground that he should not be asked to surrender his common law right except voluntarily, but where the compensation was given to him through a legislative act it was quite proper he should not be entitled to that compensation if he saw fit to pursue his other claim.

THE COMMISSIONER: That would involve a hardship. If a man thought he had a claim at common law and failed in that then he would be without a remedy. That seems a pretty harsh result.

MR. NEELY: He always has the opportunity of taking that common law right before he takes action.

THE COMMISSIONER: But perhaps he does not find out before he is on the last heat that he has been on the wrong track?

MR. NEELY: Our experience in Canada under these acts has shown where he must elect that very few cases that are brought at common law fail.

MR. WEGENAST: Do you find that borne out by the statistics in England?

MR. NEELY: I am speaking of Canada.

MR. WEGENAST: What I understand his Lordship wants to know is the possible effect under a compensation law such as they have in England. Here the conditions are of course entirely different.

MR. NEELY: I understand from our people in England that common law claims are quite exceptional now under the existing act.

MR. WEGENAST: The workmen prefer to take the certainty under the Compensation Act rather than the uncertainty at common law.

MR. NEELY: Yes, and that would be so here if, as I say, the Commission required to look after the accidents——————

MR. WEGENAST: What effect would it have on the rate? It would still have an effect on the rate if the common law right of action remained open?

MR. NEELY: As an alternative?

MR. WEGENAST: Yes.

MR. NEELY: I think the rate might be increased somewhat. It would not be increased anything like the present British Columbia rate.

THE COMMISSIONER: Of course it must be increased because there is a greater risk.

MR. NEELY: There are a greater number of claims out of one hundred

accidents that would result no doubt, but the average cost of each claim would be very much less. Now, under employers' liability conditions and negligence conditions such as we have in Ontario, we find the percentage, we will say, of about 40 to 100 where claims are made. Under Workmen's Compensation conditions the percentage increased at once until we expect from 80 to 90 per cent., but a great many are for very small sums. The first week or two weeks elimination, which most Acts carry with them, prevents a large number of petty claims. They are claims of temporary disability, three, four, six, eight, and ten weeks, and so forth. The amounts are comparatively small and the money goes directly to the claimant without cost.

THE COMMISSIONER: A statement has been made here, and made elsewhere, that the present law is practically useless to the workman and does not help him. I would like to know if you could tell us off hand in what percentage of cases you have defended you have succeeded?

MR. NEELY: I couldn't give you that correctly.

THE COMMISSIONER: Was it very small?

MR. NEELY: It is very small. It is quite the exception that we succeed in the defence.

MR. WEGENAST: Speaking of the rates in the United States, I think you mentioned that the American companies found that the rates are still inadequate and that there are no profits in the business of liability insurance. What would you say as to the conditions in England at present?

MR. NEELY: The same report comes from England, that the business is not profitable at the present rates.

MR. WEGENAST: So that that means if you are to get any profits the rates would have to be raised?

MR. NEELY: In England, yes.

MR. WEGENAST: Now, I have here a statement copied from one of the leading scientific journals of England, on which I am not able to lay my hands for the moment. It is taken from a report of the Board of Trade showing the percentage of premiums that are paid into employers' liability companies that are actually paid out in the form of benefits to the injured persons or their dependants, and I see here that there is still credited to commissions and expenses under the English system 35.91 per cent. of the premium. Could you say anything as to the correctness of that?

MR. NEELY: I think that is about correct.

MR. WEGENAST: So there is nearly 36 per cent. of the money paid out by the employers that does not reach the workmen?

THE COMMISSIONER: We had the figures at Cobalt, and it is very much greater. The amount that the person injured received, or his dependants, was very much less than went in other directions. I have forgotten the figures.

MR. WEGENAST: There might be a condition, your Lordship, where, as in England, the employer is, so to speak, stripped of his defences, and his chances of being able to defend are lost. It might tend to lessen litigation to strip him of defences, and induce settlements in a larger number of cases where there is a good defence, but still in England apparently 36 per cent. of the money that is paid out does not reach the pockets of the workmen.

MR. NEELY: I do not think that is exaggerated.

MR. WALDRON: Does that include the expense of litigation?

MR. NEELY: Yes, all expenses.

THE COMMISSIONER: The expenses of getting business also?

MR. NEELY: Yes. Eliminating the expense of getting the business it is very doubtful whether any concern, whether it is a private corporation or otherwise, could conduct its business for a smaller ratio than the insurance company. The stock interest necessary looks after the expenditure and the directors are looking after the expenditure, and all things are curtailed as much as possible. The one charge of getting business is something which might be eliminated where there is State insurance.

MR. WEGENAST: But apparently the ratio ought to be still larger to allow for some profit to the stockholders, because you say the business is being run at a loss. The additions to the premiums would necessarily be added entirely to that 35 or 36 per cent.

THE COMMISSIONER: I did not understand Mr. Neely to say it was run at a loss, but the rates were not high enough to make a fair return.

MR. WEGENAST: Yes, but any added expense would have to be added to that 36 per cent. It would not decrease what went to the workman or his dependants.

MR. NEELY: I don't quite understand you.

MR. WEGENAST: The increase in the rates is not for the benefit of the workman. He would not get any more for each individual claim by the increase of the rates?

MR. NEELY: The presumption is he is getting what he is entitled to.

MR. WEGENAST: The tendency is not to increase the efficiency of the English Act, but to decrease it.

MR. NEELY: It is not a question of affecting the act in any way. It is as affecting the business end.

MR. WEGENAST: I am speaking of the act as an agency for putting in the pockets of the workmen the money that is paid out by the employer. There is still apparently 35 or 36 per cent. that goes astray, and if there is an increase in it it would be still more.

MR. NEELY: Is it presumed by anyone that insurance operated by the State could be done for nothing?

MR. WEGENAST: I am not speaking of that, Mr. Neely. I am just speaking of the general point there. Then there is another point I would like to raise if this is the time to do it. A liability insurance system is not compatible with a system where the payments are periodical. That is, a liability company would not assume the payments of weekly or quarterly or monthly amounts. Their desire is to commute the payments and wipe them off the books.

MR. NEELY: On the contrary the liability insurance is better in the case of deferred and annual payments because the liability insurance company under the supervision of State Departments is required to make certain deposits and guarantees and is a far safer institution for the workman to draw from than the individual manufacturer who might be out of business to-morrow, and he has nothing to get.

MR. WEGENAST: Do you as a matter of practice in England, your company being one of the largest in business in England, assume the payment of these weekly periodical payments.

MR. NEELY: Yes.

MR. WEGENAST: You have the men coming to the office drawing their weekly payments?

MR. NEELY: Yes.

THE COMMISSIONER: You do it in Quebec too, don't you?

MR. NEELY: Yes.

MR. WEGENAST: I understood the contrary was the case, that your policy was to commute.

MR. NEELY: Our company is an annuity company. We are qualified to sell those annuities.

MR. WEGENAST: Then what is the practice of other companies in employers' liability business? Do they all assume the burden of paying these?

MR. NEELY: As far as I know.

MR. WEGENAST: So that the employers' liability companies here in Toronto, and other liability insurance companies here are making pension payments under the system where the liability would be thrown directly on the employer?

MR. NEELY: Yes.

MR. WEGENAST: The injured persons would get their cheques for that?

MR. NEELY: The Compensation Act in Quebec has contemplated that one thing by providing that upon application of the workman in the case of a permanent disability, the employer may be required to pay into an insurance company a capital sum, and the annuity paid, and the insurance company being the one qualified has to be the custodian of the fund and pay out the annuities.

MR. BANCROFT: There is just one thing, your Lordship, I would like to ask Mr. Neely, and that is if this would represent the conditions as the company has found them in Canada since the introduction of the Compensation Acts in the different Provinces that are modelled somewhat along the lines of the British Act. It says here speaking about Europe particularly that, "it is everywhere testified by Government authorities, by employers, employees, and managers of insurance companies, that the introduction of bills for the workmen's compensation for industrial accidents was at first a very disturbing element owing to the fact that the insurance companies had no accurate knowledge of the hazards they were asked to cover.

"While at first great difficulties arose about proper rates of premiums, and others, not so serious about accommodating the policies of companies to the new conditions, the general result of the legislation has been good, and in nothing is this more evident than in its effect upon employers' liability insurance. Thus, a materially larger proportion of the premiums paid by employers is now directly applied to the indemnification of employees. This includes reserves which must necessarily be set up to meet the unexpired liability under the policies, the accrued but unmatured liability for annuity payments to dependants or to those totally disabled, and periodical sums remaining to be paid on account of temporary disabilities. In fact the percentage of claims to premiums varies from 60 per cent. to as high as 70 per cent. or even 75 per cent. instead of from 40 per cent. to 50 per cent. as previously."

MR. NEELY: I think that is the tendency.

MR. WEGENAST: This refers to the passing of the Workmen's Compensation Acts.

MR. BANCROFT: In the percentage of claims after the passing of the legislation to which we have all been referring, which is English legislation, they vary now from 60 to as high as 75 per cent., whereas formerly under the employers' liability insurance they were only 40 to 50 per cent.

MR. NEELY: Yes, we find in the Provinces where there are Compensation Acts the money that reaches the workman's hands is a much greater per cent. than under the old conditions.

THE COMMISSIONER: Do you find, Mr. Neely, where those Acts are in force that you deal more often directly with the injured man than with the lawyer?

MR. NEELY: Yes.

MR. MEREDITH: In the Brotherhood of Trainmen we have nearly 120,000 men insured, and I can go back a great number of years. We used to pay $2 a month; which would be $24 a year. We used to insure a man for $1,350, and we never paid any more than $2 into the insurance, and that was able to maintain an insurance against death and against total disability for railroad work. That is, if a man took consumption, or if he got sick in any way so that he couldn't follow his occupation, he would get this $1,350, and if he lost a hand or a foot he was entitled to the same thing. If he lost his eyesight he would get it. Now, we have never found any difficulty in keeping that up, and last year or the year before last we were able to increase that indemnity to $1,500 instead of $1,350. We gave that voluntarily. We found we were accumulating on that $24 a year proposition, and as you know we insured all these yard-men and men in the most hazardous occupations in the world. I think that is conceded. We feel that this thing can be done all right, that there is no trouble whatever in carrying these things out. We sometimes have a little difficulty. A man will put in a claim when he is not injured as much as we think. I have taken a man to a doctor outside of his own doctor, who has reported he was disabled, and asked him to pass upon him, but it is very seldom that we ever get taken in, and very seldom we turn a claim down; and we feel that could be carried out in every case. I don't see if it can be carried out among railroad men, the very worst class of risk, as I think our friend Mr. Neely would say, that other bodies couldn't. In fact, I recollect the time they wouldn't insure a man. If I wanted to insure my life against accident when I was a trainman running on a train they simply wouldn't give it to me. They would give it to a commercial traveller or a man travelling on the train, but they wouldn't give it to me. They thought my occupation was too hazardous to get a thing like that. Now, I think we can get this thing up. I think Sir William is trying to find out how this thing can be run smoothly and for the interests of everybody, and I think that is only right. I don't believe in pressing another man to increase my riches or the amount of liability for myself. I have always been one that has said that a man should take his own liability. That is one of the troubles we find among the workingmen, to assume the liability, to come into the Brotherhood of Trainmen for instance. We have a job to persuade men in their best interests, and yet when they come in they feel perfctly satisfied it is for their best interests. I don't know how Mr. Neely would look upon that payment, that is that $1,500, and assume all those liabilities, in the case of switchmen and brakemen and conductors—I don't know whether that rate is higher than his rate. I can hardly figure it out on the basis you put it on, but we were able, as I say, to give another $150 more than we were giving, simply on a flat rate paid every month.

MR. NEELY: Of course our rates are never blanket rates in the form that you describe. Our rates are based upon the hazard in each occupation. I couldn't say without some little calculation just what the average cost would be to trainmen, for the yardmen and the freight brakemen, which is the highest, down to the passenger conductor. There is a very wide difference in the rate, and just what the average would be if they all came in I could not say without some calculation.

THE COMMISSIONER: What is the highest, Mr. Neely, in the case of yard brakemen?

MR. NEELY: The rate is $27 a year I think for $1,000 of insurance.

MR. MEREDITH: We give $1,500 and pay $24 a year, and we are accumulating money.

THE COMMISSIONER: You must take the low in as well.

MR. MEREDITH: Ours are all high.

THE COMMISSIONER: Doesn't it include the conductors?

MR. MEREDITH: No, the conductors have a rate of their own. They pay a little less than the brakemen or switchmen.

MR. NEELY: A freight conductor would be $15 for $1,000.

MR. MEREDITH: That is something similar.

MR. WEGENAST: I see the rate under the New York law was $10 for trainmen, steam railways.

MR. KINGSTON: It is straight accident insurance.

MR. NEELY: The passenger conductor I think would be $10.

MR. KINGSTON: Is it true in practice the liability companies do not carry the risk for any steam railway?

MR. NEELY: For the public?

MR. KINGSTON: For the public, or employees.

MR. NEELY: I think they carry it themselves, as far as I know.

MR. KINGSTON: So there are practically no statistics on which one could form a conclusion in that business?

MR. NEELY: No.

MR. MEREDITH: In the Grand Trunk every man is insured, and it varies. Sometimes I am insured in the $500 grade and sometimes it comes down and my monthly payment will be 40 cents. That is the very lowest, but it very rarely goes higher than 80 cents. That is for $500. $1,000 would be of course just about double that, and you can go up as high as $2,000.

THE COMMISSIONER: What would you think, Mr. Bancroft, of the Italian scale of remuneration, $400 isn't it,

MR. BANCROFT: Of course, your Lordship, in assessing all these payments of the different countries we have to recognize the fact that the wages and cost of living vary considerably.

THE COMMISSIONER: The scale of living is perhaps more in some countries.

MR. BANCROFT: And you know the wages vary. Wouldn't that be true, Mr. Neely, where you have information about insurance in the various countries, you find the wages of the workmen are considerably different.

MR. NEELY: Yes, it makes a great difference.

MR. BANCROFT: I was looking up some months ago the telephone wiremen, and their wages in Sweden, I believe, are only about one-third, I think, of what they are in Canada. It would make a tremendous difference in Sweden.

MR. WEGENAST: The insurance would be so much higher.

THE COMMISSIONER: Are you able off-hand to say, Mr. Neely, how the wages in England compare with the wages in Ontario?

MR. NEELY: I could hardly answer that. I have had nothing to do with the English insurance except as I would have it from our people.

MR. WEGENAST: The higher the wages the lower the premium rate.

MR. NEELY: Of course the premium rate is applied to the wage. The higher the percentage of indemnity of course the higher the rate. In England

the scale is half wage, and the maximum is a pound a week. In British Columbia it is half wage, and the maximum is $10 per week. Now, we find in British Columbia a very peculiar condition existing. Most of the workmen in British Columbia receive more than $20 a week in the skilled trades, and a man receiving say $25 a week or $27 a week does not care very much for $10 a week indemnity, and when his first two weeks are eliminated there isn't the same inclination to make a claim under the Workmen's Compensation Act that there would be if he had a fair measure of damage, and that seems to be a hardship in British Columbia, and I think it has militated against the success of the act. If they had a limitation that allowed a larger percentage of cases to come within the half wage it would be better.

THE COMMISSIONER: Does that mean that a man goes back to work sooner than he should?

MR. NEELY: No, it means he is more inclined to take his chances at common law or employers' liability.

MR. WALDRON: I see in one of the European countries that the total indemnity is fixed as an annuity equal to 30 per cent. of the average savings of the man for his lifetime—the average wages. Would that be a good indemnity?

THE COMMISSIONER: I don't see how you could work that out.

MR. WALDRON: An annuity the value of which would be calculated as 30 per cent. of his average wages.

THE COMMISSIONER: That would be an annuity for his probability of life, capitalized?

MR. WALDRON: Yes, they capitalize it apparently. They might capitalize it as 30 per cent. of his wages during his expected life.

MR. KINGSTON: The Washington system would be an improvement on that, where they put $4,000 as a maximum, but it is based upon the American table of mortality as adopted by the insurance companies, the amount being ascertained by taking $20 a month and capitalizing it. Of course the amount would be greatly lessened as the age of the injured or deceased was greater.

MR. WEGENAST: The capitalized value is arbitrarily fixed at the age of 30 years. They take the capitalized value of an annuity of $20 of a person aged 30 years. Then they take their chance of the age being higher.

MR. KINGSTON: If a person was killed who was under 30 years of age there would be a possibility of getting $4,000?

MR. WEGENAST: Yes, a little more than $4,000, and a diminution if the man was 50 years old.

MR. KINGSTON: Then it would probably not amount to more than $1,500 or $2,000.

Under the British Columbia Act which Mr. Neely has spoken so much about, the system there is that an action is a sort of drag net action. They can claim in one writ under all three systems, and if they fail on the one which gives the greatest remedy possible, they can hang on to the next one, and if they fail on that one they are sure to stick on the Compensation Act which gives a certain remedy.

MR. WEGENAST: That is practically the English Act under which if a man sues at common law he can still have his compensation assessed under the Act, with some penalty in the matter of costs.

MR. KINGSTON: In British Columbia it goes further than that. You sue under one action, claiming under the common law, but if you fail under that you can claim under the original workmen's Compensation Act which is similar to

our present act, and if you still fail in that then you can come under the new Compensation Act.

MR. WEGENAST: I think that is the same as in England.

THE COMMISSIONER: Under our law the dependants in the case of a fatal accident would not be limited as they are here, in the Washington Act. If a widow or an invalid widower survive, a monthly payment of $20 shall be made throughout the life of the surviving spouse to cease at the end of the month at which remarriage shall occur, and the surviving spouse shall also receive $5 a month for each child until the child reaches the age of 16, but the total monthly payments under this paragraph shall not exceed $35. Now, under our law they might get a great deal more than that.

MR. WEGENAST: Not more than $20 to $35 a month.

THE COMMISSIONER: They might.

MR. KINGSTON: Capitalize that and you get a good deal more than our law would give.

THE COMMISSIONER: That would depend on the age of the surviving spouse.

MR. KINGSTON: Does it?

THE COMMISSIONER: No, but it would in this country under a fatal accident. The capital amount she would get as a dependant would be less the older she was, of course.

MR. NEELY: The point that the insurance companies, and apparently the legislators, overlooked in dealing with the Quebec Act, and I may say with the French Act, was the actual value of these annuities. They did not realize that the small sum, $5 a week, on a person say under $30, being capitalized, amounts to a very large figure. The $5 a week in itself seemed to be very small, but when you capitalize these sums and pay them off the total cost of the compensation is enormous. Our company started to do business in France at the time that the French Act became effective, and the rates were advanced very radically, three times, and to-day no insurance company is doing business in France, it has become such a burden.

MR. WALDRON: The State does everything?

MR. NEELY: Yes. In Quebec the same thing occurred, although we have not seen the outcome of it; we have only been doing it for a year.

MR. WEGENAST: As to the Quebec Act there is some doubt as to whether the payments cease when you reach the limit of $2,000, or whether they still continue? Is that not the case?

MR. NEELY: There is doubt on the subject because the matter has never been decided by the courts.

MR. KINGSTON: Does that doubt arise under that section which says under certain conditions of gross negligence on the part of the employer the $2,000 may be increased.

MR. NEELY: That was one clause which rendered it doubtful, but there is another clause which makes it still more doubtful. The basis of the act is an annuity. It speaks of annuities throughout. Then it speaks of the capital of the annuities and it is so inconsistent to say a person shall be entitled to an annuity of a certain percentage of the wage, meaning for the rest of their lives, for annuity means for the lifetime, and then say it should be capitalized at $2,000. There are several ways of looking at it. One is if the annuity, we will say, was $10 a week, or say $500 a year, it would take a very few years to consume $2,000. Then we must either say that the annuity is to be reduced to a sum which applied to the

expectancy of the life of the man will equal $2,000, which is a contradiction in itself, or we might say it is not an annuity at all, that it is a simple payment lasting for a limited number of years until that $2,000 is exhausted.

THE COMMISSIONER: Could it be intended to give to the workman the right to elect to take the $2,000 in lieu of the annuity?

MR. NEELY: There is nothing in the act to permit the workman to accept the capital sum. The workman may in case of permanent disability apply to the court to have a capital sum paid into an assurance company from which he received an annuity.

MR. MEREDITH: He could not get it without applying to the courts?

MR. NEELY: He can't get it in any event.

THE COMMISSIONER: In England under the British Act he can by leave of the court, I think.

MR. WEGENAST: Or by an agreement filed I think he can get the annuity paid to himself personally.

MR. NEELY: Not the annuity, the capital.

THE COMMISSIONER: I do not think so. I have noticed several applications that were made.

MR. WEGENAST: That is within the discretion of the County Court judge.

THE COMMISSIONER: Yes.

MR. WEGENAST: But there is provision for commuting.

THE COMMISSIONER: What do you think, Mr. Neely, would be the best tribunal to determine these cases, for ascertaining the claim, and the amount of it?

MR. NEELY: I think the courts by all means.

THE COMMISSIONER: That is expensive, is it not?

MR. NEELY: I think it need not be expensive if the procedure is carefully prescribed and made as simple as possible.

MR. MEREDITH: I would like to say, Sir William, our experience of going to the courts is very bad; what we call taking it to law. I can cite the case of a man down on Adelaide street here, where his son was killed by a car falling on him. He was attending to the air brake under the car, and the engine came along and knocked it over and killed him. It was on the Canadian Pacific railway out at West Toronto Junction. They offered the wife something like $1,500, and the father-in-law thought that was rather a small sum for the way in which it occurred, on account of no fault whatever on the part of his son, and he took it to law. I was talking to him the other day, and I think the widow and child got something like $500 or $600 after everything was paid. That shows what it means by taking it to the courts.

THE COMMISSIONER: He should have taken the $1,500.

MR. MEREDITH: I advised these people, take whatever is offered to you, don't go and put it in the courts, because you will get nothing at all the chances are, and if you do get anything it will be very little.

THE COMMISSIONER: I suppose under the British Act ninety-nine cases out of a hundred are tried by the County Court judge without a jury, and there is no appeal on the questions of fact, only on the questions of law, and judging from what Mr. Bancroft said that would suit the workers.

MR. BANCROFT: But, your Lordship, would it not be right to say that the British Act so clearly specified what the county judge can do, he can do very little but what the law specifies, and there are very few appeals.

THE COMMISSIONER: I think you will find nearly half the cases in the House

of Lords have been workmen's compensation cases. Of course it is a new law and they are getting the points settled, but it is surprising the number of cases that go up on the questions of law. It is a question of law whether there is any evidence at all, and sometimes a judge goes wrong in determining that there is evidence to show that the accident was within the act.

MR. WEGENAST: Have you any experience, Mr. Neely, under the British Act? Do you know anything of the working out of it under the British Act—arbitration, and so on?

MR. NEELY: Not more than having heard it discussed.

MR. WEGENAST: You haven't heard the strictures of Mr. Logie, who, I believe, is your solicitor? You haven't seen his article on the pit-falls of law for the litigant?

MR. NEELY: I have seen them.

MR. WEGENAST: Your solicitor then, in England, who is perhaps more familiar with the working of the act than anybody else, is not sparing in his condemnation of the adjudication features of the act. He does not condemn the courts; he condemns the act and what is made necessary by the complexity of the act.

MR. WALDRON: The Italians propose in regard to agricultural insurance—they extend it to infectious diseases, that is death caused by these, contracted by contact with the animals and soil, and sun strokes and thunder bolts, etc., classified as risks of occupation.

THE COMMISSIONER: For which the employee has to be compensated?

MR. WALDRON: I presume so.

MR. WEGENAST: That is a State insurance system. State insurance fixes it upon the employer. The employer pays the premiums which cover these risks.

MR. NEELY: Those are called occupational diseases.

MR. KINGSTON: The Germans have worked that out in a satisfactory way so far only as the first two weeks are concerned. The fund from which compensation for those first two weeks is taken is collected by a contribution of, I think it is, two-thirds from the workmen and one-third from the employer. That is for the first two weeks only.

MR. BANCROFT: The first thirteen weeks.

MR. KINGSTON: Yes. After that they automatically switch over to the other fund which is contributed to entirely by the employer.

THE COMMISSIONER: There is nothing in case it does not last for more than two weeks?

MR. KINGSTON: Yes. That feature is introduced into nearly all the Acts which are modelled after the British Act. In British Columbia, Alberta, Manitoba, Newfoundland and New Brunswick there is no compensation for in some cases the first week and in some cases two weeks or ten days.

MR. NEELY: In arranging for the practical working out of such an Act it seems absolutely necessary that there should be some short period during which there should be no compensation, to prevent malingering, or prevent taking holidays at the expense of someone else, or anything of that sort. It must be a more serious case to require a man to give up his employment for two weeks. There is not so much chance of affecting an accident.

THE COMMISSIONER: I understood from Mr. Bancroft there was no such thing as malingering, that it did not exist in the industrial army.

MR. BANCROFT: No, I think not, your Lordship.

MR. MEREDITH: In soldiering we have known a man to cut off his front

finger. That is a fact. He has actually chopped off that finger himself, so that he would not be able to pull the trigger of his rifle. Now, that is malingering. Now, I haven't met any of that kind of thing in the industrial army. To say a man will go and put himself in a position to lose his hand or his foot for the sake of getting insurance. I think it is a slander on mankind.

MR. BANCROFT: I think Mr. Neely could tell us in Great Britain, in the act, that there is a time specified in which a man shall not receive compensation, but if his injury goes over that time it dates to the first day.

THE COMMISSIONER: Yes, there is no doubt about that.

MR. NEELY: That is not objectionable.

MR. WEGENAST: Would it from the accident insurance standpoint do equally well if there were during that period of two weeks, or whatever it is, a fund to which the workmen contributed to take care of the injured man so as to bring home to the workmen himself pecuniarily the burden of malingering. Under the act of the State of Washington as originally brought in there was what was regarded as a penal fund for the first two weeks to which the employers and employees contributed at the rate of two cents a week each. They fixed that arbitrarily for all occupations, and this fund was supposed to take care of the injured man for the first two weeks. Would that from the insurance standpoint be as effective in preventing malingering as the cutting of the workmen out of all compensation during those two weeks?

MR. NEELY: I think it would be very effective, because then the fund would have the moral protection of all the other workmen. The main difference in the experience of stock insurance and mutual insurance is in that one fact.

MR. WEGENAST: That is the feature to which you attribute the success of mutual insurance as against stock insurance?

MR. NEELY: That is one of the great differences, yes, the moral protection of all workmen against the man who attempts to impose on the fund. The fund is safeguarded. The stock insurance company, or the employer, has not that support.

THE COMMISSIONER: That is only one of the things. The way they are managed has a good deal to do with it.

MR. NEELY: The cost of getting business.

MR. WEGENAST: And also the success in contesting claims, of course.

THE COMMISSIONER: The British Act is, if incapacitated less than two weeks no compensation shall be paid in respect of the first week.

MR. KINGSTON: I think one or two of the provincial acts adopt that same provision. I am under the impression that either Alberta or British Columbia, or both, have it, absolutely eliminating the first two weeks.

MR. NEELY: No: Quebec eliminates the first week.

MR. WEGENAST: That again would have considerable effect on the rate because a large proportion of the accidents are for only temporary injuries.

MR. NEELY: Of short duration, yes.

THE COMMISSIONER: Surely there would be no justice if the incapacity lasts for ten weeks if at the end of the time he should not be paid for it.

MR. NEELY: It would be perfectly reasonable to pay from the beginning if it lasts. It is to prevent a three or four or five days claim of a man taking a short holiday, and he can afford to lose half his wage, and the employer has to pay the cost, when he is suffering from no real serious injury.

MR. WEGENAST: There would be this inducement, that a man who was legitimately ten days off would stay in bed for two weeks or more in order to get the whole amount.

THE COMMISSIONER: Why would he stay in bed, unless he was a lazy man?

MR. KINGSTON: With reference to this question there is a point comes up, as to the wisdom or otherwise of eliminating the right of foreign relatives of a deceased man to make any claim upon the compensation fund. The system has grown up in this country, and there are several gentlemen in Montreal who thrive greatly on it, of taking up these cases. They represent the foreign element in the whole of Canada, consuls of some of those European countries, and they succeed usually in finding out a dependent relative in the Old Country. No doubt in many cases there may be foundation for the claim, but I should not think that there should be a great deal of sympathy displayed in a Compensation Act for foreign relatives. I am not now referring to relatives who are British subjects, but for instance in Roumania and Bulgaria and Turkey.

THE COMMISSIONER: Your idea, Mr. Kingston, would be, let them starve if you don't see them starve?

MR. KINGSTON: These people do not contribute anything to these people in the Old Country while they are working here, but as soon as they are killed then a claim is bolstered up by some of these gentlemen who pretend to represent the father or mother in the Old Country.

THE COMMISSIONER: Still there are very many cases where these poor Italians are working here and sending money home to their wives and families, and it would be pretty hard where they are killed to refuse any compensation.

MR. KINGSTON: I would limit that to a case of that kind where the wife and dependent children are living in Italy. That might be an exception that would be all right.

MR. WEGENAST: Under the Quebec Act they do not get any compensation unless they live in Canada.

THE COMMISSIONER: I think that is so also in British Columbia. I do not like the look of that kind of legislation.

MR. BANCROFT: The danger that has arisen from that part of the act in British Columbia is that it has been decided that a man's dependants living in Manitoba, and the father or husband living in British Columbia, are not entitled to compensation.

MR. KINGSTON: That is the Manitoba Act, I think?

MR. WEGENAST: In Europe it has been found better to deal with that by treaty, because if you give the dependants of an Italian compensation and the Italian law does not give it to the injured Canadian that would be unfair. Of course that is an extreme case. It would not arise between Canada and Italy, but it illustrates my point. It is considered a matter of treaty amongst nations, and a matter of getting reciprocal rights.

MR. DOGGETT: There is a matter of $30,000 of claims in dispute which is being taken to the Privy Council by the workers whose relatives are living outside of the Province.

MR. WEGENAST: If the Manitoba law does not allow similar rights to the residents of British Columbia there is no reason why the British Columbia law should allow it to residents of Manitoba.

THE COMMISSIONER: Except to set them a good example so that they will repeal their law.

MR. BANCROFT: It is a hardship, because they go long distances in the west. It is a distinct hardship.

MR. KINGSTON: I think it is very provincial to restrict it as far as Canadians

are concerned, or even British subjects the world over. The point I raise is entirely with respect to those Southern European countries.

MR. DOGGETT: They might become naturalized subjects in the meantime.

MR. BANCROFT: I believe the gentleman is referring to the danger of interested parties exploiting it for profit.

THE COMMISSIONER: They do that on the home ground.

MR. BANCROFT: It is alleged or supposed relations in these places, and they lay a claim to compensation.

THE COMMISSIONER: It is very difficult to test the honesty of these claims, and very expensive to search it up, no doubt about that.

MR. BANCROFT: Don't you think with the view that is being taken over this country by the workers that if a man has come here to work and is employed and following his legitimate occupation, if he has dependants, they should be given compensation just like anyone else?

MR. KINGSTON: If they reside in Canada.

THE COMMISSIONER: I do not see why there should be any limit of that kind at all at present.

MR. BRUCE: The compensation is simply to take the place of some revenue.

THE COMMISSIONER: Of course that is the basis on which we are discussing it.

MR. WEGENAST: Then the idea would not be to simply set an amount of money as the price of a man's life and give it to his nearest relatives, but to give it to those who were really dependent on him.

THE COMMISSIONER: The Washington Act is a little different from that.

MR. WEGENAST: That makes it clearly contingent upon a real dependency. A case arose there where a boy was killed, and the father and brother were earning good wages and they were in no sense dependent upon his earnings. The boy was 18 or 20 years old, and, of course, there was no compensation whatever. It is a matter I propose to deal with in the statement I hope to submit to your Lordship. It makes a difference in the whole aspect of the question, whether you view it from the standpoint of having a certain amount of money as a commutation for the injury that is done, or whether you place the whole scheme on relieving want and providing for dependants.

THE COMMISSIONER: I do not understand this Washington Act as you state it. There is nothing about dependency in the section. If a widow, or an invalid widower survive, a monthly payment of $20 should be made throughout the life of the surviving spouse to cease at the end of the month at which remarriage shall occur, and the surviving spouse shall also receive $5 per month for each child of the deceased under the age of 16 years.

MR. WEGENAST: I was speaking of the case of other dependants. This was a son of 19 or 20 years.

THE COMMISSIONER: She gets $5 a month up to 16.

MR. WEGENAST: Not for the killing of a child. Suppose under that system a young man is killed on whom no one is dependent, or a man with distant relatives is killed.

MR. BANCROFT: I think then the act provides for his funeral.

THE COMMISSIONER: It is better if he has no relatives if they are going to do harm to the man to kill him.

PROF. KEYS. I have had some experience in Germany in the matter of insuring domestics. I had a nursery governess there and I had to insure her to the extent I think of about 15 cents a week, a very small sum, but on leaving Leipsic

and going up to Nuremburg I did not pay attention to the fact that she was insured, and the German government charged me about $5 in, I suppose it would be, a police case such as you referred to a little while ago, because I neglected to tell the Leipsic authorities I was leaving. Of course I didn't know the law. The law is very severe against employers of domestic servants, as well as against employers of labour generally. I have read that pamphlet of Professor Friedensburg. He was the head of the Insurance Department in Germany for about 20 years. You doubtless know the pamphlet?

THE COMMISSIONER: Yes, I have read it.

PROF. KEYS: That made a great sensation while I was in Germany last year. It was viewed from very many different points of view by the Conservatives and by the Labour Parties, the latter casting all manner of contumacy upon it, while the Conservatives seemed to think it was a true representation of the case.

As to the difference in the cost of living there, and in labour, I suppose a good illustration would be that the street car men in Munich get about $1.10 a day, and the women who sweep the streets get about, I think, 70 cents a day. They sweep the streets there every night carefully. That represents a living wage, and it would hardly be so considered here.

MR. WEGENAST: The compensation is based on a percentage on that?

PROF. KEYS: Yes.

THE COMMISSIONER: Does that wage provide for the man or woman on as good a scale as the wage paid here would?

PROF. KEYS: No, those people do not eat beef as a rule. They have to live on cheese.

MR. WEGENAST: They do not have bathrooms in their houses.

PROF. KEYS: They have free baths, of course, at the public expense, or given by public citizens.

MR. MEREDITH: That would be supported by the government.

THE COMMISSIONER: I do not think we always appreciate what it means when we say "supported by the Government." That means supported by us, and if everything depends upon labour, then it is supported by labour in the last analysis.

MR. WALDRON: No, everything depends on the producers.

MR. MEREDITH: I think you all know how this matter of insurance first came up. It came up about 30 years ago. On the Grand Trunk we used to have men hurt continually, and every time that I would go and get my pay and other men would go and get their pay at the pay car, there would be some men around with a subscription for this widow, or a subscription for this man who was hurt, and by the time you gave a little to everybody you would scale your pay down pretty low; and then we found out that certain men would not give anything at all, and the generous ones contributed everything that was going. So then we really put pressure on the Grand Trunk to start the insurance scheme, and from that time it has gone on. Then we started the Trainmen's, and the Order of Railroad Conductors. We started them as mutual concerns, and really you would be surprised how hard it is to get a man to pay a few cents in to help himself.

THE COMMISSIONER: It is hard to get him to make the other fellow put in a few cents to help him?

MR. MEREDITH: It is. It is a battle all the way through. We are battling here to get something that will benefit everybody, as far as we can. That is a pretty hard proposition. In Cleveland, a city of 600,000, the charities are kept up by about a few hundreds of those who really do anything. That is the generous

people who keep all these poor are just a select few that have a little kindness of heart to do this thing.

MR. WEGENAST: But, Mr. Meredith, you don't suppose this workmen's compensation is on the basis of charity?

MR. MEREDITH: No, I do not.

MR. WEGENAST: We want to place it on the basis of insurance and I suppose you simply want a square deal.

MR. MEREDITH: That is right.

MR. WEGENAST: You want nothing more than is coming to you as your share?

MR. MEREDITH: I don't expect to get anything personally.

MR. WALDRON: That is a curious ground to take, to say insurance of that kind is a square deal. I don't know how you will arrive at it. Are you able to state any principle of philosophy on which you base the act? There are schemes to help distress, and this is one scheme to help it. Then the insurance comes up as old age insurance, or sickness insurance, or the insurance of the farmer who has failed in his business or is threatened with the poorhouse. You see that is where he is going now. You go to the county of Huron or Middlesex and you find farmers who were well off and who have met with disasters now living in the poorhouse, and have no insurance of any kind because they have never been able to pay it, and have no means to enforce it and have never thought of saying "this is our right." That is what offends the producing class.

MR. WEGENAST: I must say I agree to a certain extent with Mr. Waldron's point of view, and he misunderstands me when he makes that reflection. It is based on both principles. It is a matter of relieving distress, of course, but when you come to the means by which the distress is to be relieved I don't know that it is out of the way at all for the workman to say that he wants nothing more than what is really coming to him.

MR. MEREDITH: That is right.

THE COMMISSIONER: Surely, Mr. Waldron, you are overlooking a large part of the principle of this workmen's compensation. The present law simply indemnifies the employee for the wrong that has been done by his employer.

MR. WALDRON: Quite so.

THE COMMISSIONER: What is asked is to extend it a little further. The proposition is to protect him from the risks incident to his occupation, and to that extent it may be eleemosynary.

MR. WALDRON: Whether there is negligence or carelessness?

THE COMMISSIONER: That is the ground on which in some of the States, I suppose, it is unconstitutional?

MR. WALDRON: Yes.

MR. BANCROFT: I might say to Mr. Waldron that for years now, I think I would be right in saying, that labour has pointed out to the farmer, practically speaking, that he was hardly an employer, that he was a producer, and liable to the same conditions as are liable to the workmen. The farmer is a producer.

THE COMMISSIONER: You didn't get him to come in? You invited him into partnership and he didn't come.

MR. BANCROFT: Still we have had a representative at our meetings. We had Robert Owens.

MR. WEGENAST: You have no representative of farm labourers, I think?

MR. DOGGETT: There is in Britain.

MR. WALDRON: For instance take me. I am a lawyer and, as I put it

earlier in the evening, I meet with an accident, and wife and children fall into anguish and cry out for bread. Where are we to get our rights that we are entitled to from society? You are not bothering your heads about us.

MR. BANCROFT: We always fancy from our experience, and we have some very good lawyer friends, and some associated in our work, but we always found they were thoroughly capable of taking care of themselves.

MR. WALDRON: Well, we see statements made to the contrary. You see there is the statement made that lawyers generally over the Province are not getting a thousand dollars above their office expenses, and they are liable to meet with disaster too.

MR. BANCROFT: Mr. Waldron, I wanted to point out the great difference that exists now, for instance, from when first the employers' liability law came into force. There was a different state in society than there is now. You know probably better than I do the development of machinery in the last 50 years all over the world. There was a time when a man used his own tools and did his own work.

MR. WALDRON: Take the farmer for example.

MR. BANCROFT: Just a moment. We still have the old law where a man can claim for damages, but now in the complex industries, where there are big machines and the risks are so great, we claim it is a right that the workmen have to protection by legislation, and if not protection by prevention of accidents then for some measure of relief to the dependants of those injured in industries.

MR. WALDRON: You would get that by making your legislation a personal obligation on the employer and the owner of the machines, so that he does not become guilty of what society considers negligence towards those he employs.

THE COMMISSIONER: I think statistics show that something over 30 per cent. of the accidents are due to the fault of nobody, or perhaps nearly 40 per cent.

MR. WALDRON: The statistics show that 274 people, I think, die on the farms from injuries. I don't know how they are classified. There would be the goring of bulls and slipping on the ice and falling limbs of trees, and runaway horses, and automobiles, and so on. Now, these people surely are in your words incurring these risks? They are the owners of farms with small equities, it may be. They are getting no reward from society, and they are making no claim, and they are listening to you making this demand of a right that you are entitled to. You say "We are demanding our rights."

MR. BANCROFT: Sure.

MR. WALDRON: That is an important part.

MR. BANCROFT: I think in the State of Washington Act every employee on the pay-roll is covered. It is on the yearly pay-roll I understand in Washington.

MR. WEGENAST: On the farm?

MR. BANCROFT: No, not a farmer. The total wage-roll is taxed and it doesn't matter what the man's salary is.

THE COMMISSIONER: It says an individual employer or any member or officer of any corporate employer who shall be carried on the pay-roll at a salary or wage not less than the average salary or wage named in such pay-roll and who shall be injured shall be entitled to the benefit of this act as and under the same circumstances and subject to the same obligations as the workman.

MR. BANCROFT: If the farmer who is really a working employer has to pay any measure of taxes then he should come under the Compensation Act just the same.

MR. WALDRON: That is to say he should be indemnified out of the State funds, collected from himself and other farmers.

MR. BANCROFT: Why not?

MR. WEGENAST: The point I wanted to emphasize is that Mr. Waldron's argument goes to the root of the whole scheme of workmen's compensation.

MR. WALDRON: No, it doesn't. I am not arguing. I am getting enlightenment.

MR. WEGENAST: Assuming the worker in industrial pursuits has a right, morally or whatever it may be, to be indemnified when he is injured—

MR. WALDRON: He has a right to invoke the law.

MR. WEGENAST: That would only provide for a small percentage of the accidents that happen. Forty or fifty per cent. are purely accidental and are not due to any one's negligence, and you can't cover those by anything short of a workmen's compensation law.

MR. WALDRON: You can't cover them at all. We are not indemnified.

MR. WEGENAST: Assuming that a Workmen's Compensation Act is right in principle you would not surely make a distinction between the farm worker and the worker in any other occupation. For instance, two immigrants come to this country and one takes a position in a factory and the other a job on the farm. One is injured by a machine and the other is gored by a bull on the farm. Is there any reason why the man who is gored by the bull should not be indemnified any more than there is that the man who is hurt by the machine should not? On the assumption that workmen's compensation is correct the farmer should be included.

MR. WALDRON: What do you mean by a farmer?

MR. WEGENAST: A farm labourer.

MR. WALDRON: It is the principle on which these gentlemen are going.

MR. WEGENAST: Would you assent to my proposition that if the industrial worker is compensated the farmer should be compensated?

MR. WALDRON: I admit without any hesitation at all that there are accidents of life occurring, not only to the labourers in factories and the labourers represented by you gentlemen here, but in every profession and every walk in life, with no relief, and nobody here advocating redress for them, but you are advocating for these gentlemen redress.

MR. WEGENAST: The distinction that Mr. Waldron fails to observe is in the position of the wage earner, and what the French call *entrepreneur,*—a man who is running a business for himself.

MR. WALDRON: If a man directs his employee to work at a machine that is dangerous or is not properly equipped then the *entrepreneur* ought to be liable. Of course one sees that readily.

THE COMMISSIONER: If you have a system of State insurance what possible defence is there for not putting in the employer if he is working on the same footing as the employee.

MR. WEGENAST: Because he is in a position to take the profits.

THE COMMISSIONER: What difference does that make?

MR. MEREDITH: He makes the difference.

THE COMMISSIONER: If there is no negligence upon his part the workman is compensated. If you look at it logically why should not the employer be compensated? Why should not the State pay him?

MR. WEGENAST: If it is a matter of State insurance.

THE COMMISSIONER: He is going about his business and a wheel breaks and strikes him and kills him. Has he not got just as good a moral claim?

MR. WEGENAST: On the grounds of State indemnity.

MR. WALDRON: You see socialistic ideas are propagated and they work out in these assertions which you gentlemen make in a way which shocks me, not only as a representative of the farmers but as a member of society. I saw it in the papers and I was amazed that Ontario was listening to statements such as these. We have heard them made by socialists in Paris and in Berlin, but to find here in Ontario men are saying that they demand to be relieved of what everybody else must put up with, is surprising.

MR. BANCROFT: I don't think that would be a right inference for you to draw from anything that has been presented to his Lordship in Toronto. If you refer to something else that is a different matter. If you search the records of what we have placed before his Lordship in Toronto as to the evidence of the legislation in other countries, irrespective, mind you, of the opinions that we may otherwise hold, I think his Lordship will agree with me that the words you have used do not apply to any representations that have been made here. We have stated the case clearly, and pointed out the truth and everything else in accordance with what we consider fair play to the workers. That is right, your Lordship?

THE COMMISSIONER: I think so.

MR. WALDRON: I find that public opinion has gone a long way in passing legislation of this kind. If I found Sir William Meredith giving countenance to your assertion that would be influential. If you appealed to my feelings they would be influential, but that is not good reasoning.

MR. MEREDITH: That is from your standpoint.

MR. WALDRON: As a thinking man it does not convince me.

PROF. KEYS: The German point of view is that it makes for the efficiency of the nation.

MR. WALDRON: I am not touching that. It might be a good thing to devote all my attention and for all of us to contribute to labour and answer the demands that are made here; it may be right to contribute to the welfare of this nation, but you make economic conditions so unbalanced that people leave the land.

PROF. KEYS: In Germany, of course, agricultural labour has the same right.

MR. KINGSTON: Would you consider it right, Mr. Waldron, that 30 or 40 per cent of the industrial workers who meet with accidents for which nobody is to blame under the principles of law as we understand them now should be made the subjects of charity, as must necessarily be the case if they have not been able to lay anything aside for themselves, rather than the opposite view that the cost of these occupational accidents, including those that happen as a result of no man's fault, should not fairly enter into the other costs, or be placed alongside of the other costs so that the product will bear the whole cost?

MR. WALDRON: Should be distributed over everything. If you come to me saying hitherto you have been calling it charity. You have poorhouses to take the most hopeless of us, you have homes, and you have institutions, and associations of charity and kindness, and so on, but we propose to eliminate that now and put it in an orderly way; we propose to shoulder upon industry and distribute evenly over industry a regular charge for that purpose—if you say that, I say, well, the only objection is that I don't see why you are specially entitled to that when I see about me all sorts of people who are suffering the same wrongs, whose accidents are undiscovered and the causes are undiscovered, and there is no remedy. You see it. We all know it. So if you say not that we demand it, but you say give us

this now and we will give to the lawyer, to the poor widow, to the poor unmarried woman who takes consumption, and to all the rest of the unfortunates and derelicts and injured persons, and give them the same thing—shoulder them all, you arrive logically at a state of socialism, which you acknowledge now.

THE COMMISSIONER: Haven't we got a little way off the track? Would you not logically make it improper to make me pay as I do $120 school tax when I don't have any children?

MR. WALDRON: Put that on Mr. Keys' grounds, the welfare of the nation. My objection is to the principle involved.

THE COMMISSIONER: Does it matter very much whether it answers logic or not, or what you call it, if the thing is right.

MR. S. HARRIS: Why should a man owning a farm, if he is hurt, get compensated? He owns it, and yet he is working on it? That would apply to the manufacturer. I am an employer and I was just thinking the only place the money was coming from was the manufacturer. I see now some chance of getting a little of it.

THE COMMISSIONER: The manufacturer is the moneyed man; he is milking the cow all the time. As long as you do not make it too burdensome upon industry why shouldn't you bear these burdens? If the general public have got to pay it you will pay it.

MR. KINGSTON: In the last analysis they must pay it.

THE COMMISSIONER: There are some exceptional cases perhaps where it does not.

MR. MEREDITH: The under dog is always the small part of the community. Now, I belong to, I suppose, perhaps a dozen different organizations that I have paid money into and never got anything out of yet, and whether I ever will before I die is a question. I applied to the Grand Trunk to commute my insurance, and while I was nearly 70 years old they told me I was in perfect condition to work, and they refused it.

THE COMMISSIONER: Then it may be possible to have some evening sittings next week.

MR. WEGENAST: I understood we could not go on next week, and I am not prepared.

THE COMMISSIONER: I was in hopes we would be able to have some sittings next week when we could hear Mr. Wegenast and those whom he wants to have heard, but he says he will not be ready until later on in the month. I have to go to London on the week commencing January 8th, and I will not be able to take the matter up again until after that. If there is any branch of the enquiry that could be facilitated by holding meetings next week, we will do so.

MR. MEREDITH: I tried to get Mr. Love who used to be the superintendent of the Massey-Harris Company here, but he has lost his memory somewhat and does not think it would be wise for him to come. They had a system in there.

THE COMMISSIONER: We have got a statement of what their system is.

MR. DOGGETT: There was a question raised as to what the organized trades unions did where State compensation was paid, and I have a book here. I might state we had this last year to change our constitution in more ways than one. We have had to change it even to the amount of contribution or the amount of dues. We have had to change our Australian and New Zealand sections to comply with the laws of those countries. I think it has made a change of sixpence a week.

THE COMMISSIONER: Does anybody know of any country where there is a system by which the workmen can contribute to the funds and receive a larger annuity or compensation?

MR. BANCROFT: I think Switzerland is one of the places where there is a contribution. In Switzerland it is compulsory insurance. No insurance law in operation, but workmen in all industries are covered and the State pays for insurance.

MR. WALDRON: That is in the case of sickness and old age.

MR. BANCROFT: No, it is accident insurance purely.

THE COMMISSIONER: That is a straight contribution?

MR. BANCROFT: In Austria there is compulsory contribution, and employers pay 90 per cent. and workmen 10 per cent., but I don't see that they pay any more in benefits than the other places where the employers bear the burden.

THE COMMISSIONER: If you could have a system by which the workmen would get larger compensation, paying a reasonable sum into the funds, it would have the advantage of doing away with this objection Mr. Neely refers to, of not being a partner in the concern.

MR. BANCROFT: You see in Germany they first of all brought in an act which covered invalidity and old age. Then they brought in an act that covered sickness and death. Then they found out they had no compensation for a straight injury and they brought in a third piece of legislation which was compensation for injuries, the burden for which is borne by the employer, as it is in pretty near every other country, but for the first thirteen weeks the fund takes care of him, and after thirteen weeks are up the Workmen's Compensation Act takes care of him.

THE COMMISSIONER: During that thirteen weeks he contributed something?

MR. BANCROFT: Only through the legislation that had gone before. In Great Britain they had no contribution, and necessarily they built it upon the lines of putting the burden upon the employer. It seems to be the tendency all over the world that the burden in Workmen's Compensation should be a direct burden upon the industry. Social insurance, sickness, death, invalidity and old age seem a different matter, and everybody seems to look at it from the standpoint of contribution.

THE COMMISSIONER: What do you mean by social insurance?

MR. BANCROFT: When they speak of social insurance they speak of it more as a means whereby the workman is covered for sickness, death and old age as well as accident, and workmen's compensation deals directly with accidents arising out of and in the course of employment. I understand that is what we are considering in Ontario.

THE COMMISSIONER: Now, under this new law that has just been passed what effect will that have upon Workmen's Compensation?

MR. BANCROFT: Under this last act in England?

THE COMMISSIONER: Yes. I understand that everybody is insured practically in certain trades.

MR. BANCROFT: Well, it has this effect, your Lordship, and we had this same thing when we were preparing our case, that to leave anyone out or dream of leaving any worker out on our part was distinctly unfair in principle.

THE COMMISSIONER: Why do you say worker? Why is not anybody that is liable to meet with an accident just as deserving of consideration as a man that works with his hands? Here is a Professor from the University and he works

with his head, and if he in the course of his employment meets with an accident why should he be out in the cold? If you are logical why should that be so?

MR. BANCROFT: There is no reason why the working manufacturer should be outside of the Workmen's Compensation Act provided it is State insurance. I see no reason whatever, but if it is not State insurance it is different. The social insurance you speak of in Great Britain, the recent legislation, that is practically for the purpose of insurance against sickness and death, of people, particularly workers, who are not members of trades organizations. You pointed out at one of the sessions that members of trades organizations got sick benefits and death benefits, and so on, and this act covers everybody and covers those people who are unfortunate in not having a real strong organization and who do not get sickness and death benefits.

THE COMMISSIONER: Is that not going to be a blow to the trades unions?

MR. BANCROFT: No, that was sought in Germany, and it is not the case.

MR. DOGGETT: Those trade organizations that already pay out sick benefits and so on, under the insurance bill of Britain, the government is making arrangements with them to pay out also the government amount for sickness and benefits.

MR. BANCROFT: There was a committee went over to Germany and they investigated the whole matter of social insurance before this legislation was brought into existence, and evidently from their report it is a good thing all round. I think I heard Professor Keys mention the fact that it made for the utmost efficiency in Germany.

PROF. KEYS: That is the common argument in Germany, but an article by Prof. Friedensburg, a gentleman who has been twenty years at the head of the system, casts very great doubt on it.

THE COMMISSIONER: A pessimist would say that would be the very thing to make him go easy; the State would look after those he left behind.

SIXTH SITTING.

COUNCIL CHAMBER, CITY HALL, LONDON.

Saturday, 13th January, 1912, 3 *p.m.*

THE COMMISSIONER: I will be very glad to hear anything that you gentlemen have to say on this subject. Be kind enough, when you get up to speak, to mention your name, and if you represent any organization, say so.

MR. JOHN JONES, (Builders Exchange): Just the builders are here at present, sir.

THE COMMISSIONER: Are there any persons representing the labour body?

MR. JONES: I don't think so, sir. I have not much to say. We came up to get information. We have not very much to offer. We are waiting to see what is being done and then we might make a suggestion.

THE COMMISSIONER: But that is what I want to hear, what your views are as to the present law and as to any changes that should be made, if you are in

favor of any. What is asked for by the labour organization is that the British Act be introduced, which makes the employer liable for all accidents happening in the course of the employment or arising out of it, unless the accident is due to the wilful and serious misconduct of the person injured, and even in that case it does not disentitle the dependants to compensation if he is killed. As the law now stands the liability of the employer is limited; some breach of duty, negligence or want of sufficient appliances must be shown. Under the British law the employer is liable where the accident happens in the course of the employment and arising out of it, the theory being that in a great many cases these accidents are incidental to the industry and that the industry ought to bear the cost of them, which means that the public ultimately would bear it, or so it is said.

Then they want also this; in the State of Washington a law has been passed, and it is the only one of this kind that I know of, where the employers in certain hazardous enterprises contribute a stated proportion of the percentage of the wage bill of the year to the State, and the State insures against accidents.

MR. MARTIN: That is in the nature of State insurance is it, sir?

THE COMMISSIONER: State insurance at the cost of the employer.

In the building trade here, have there been many accidents in the last year or two?

MR. JONES: There have been a few, but we have not been any of the unfortunate ones.

THE COMMISSIONER: There have been some. Are they due generally to scaffold troubles? Injuries arising from scaffolds falling?

MR. JONES: Yes, principally so.

MR. NUTKINS: That is inside scaffolds, sir.

MR. JONES: Of both.

MR. NUTKINS: The percentage is smaller.

THE COMMISSIONER: Have the builders here pretty well observed the law of last season about scaffolds?

MR. NUTKINS: We have had a stringent by-law in the last few years.

THE COMMISSIONER: An act was passed last session which is supplementary to the municipal regulation, although the municipal regulation may go further than the act.

MR. NUTKINS: The way I take it to-day, sir, is that the employee looks to be insured; that you pay your insurance pro rata, the bricklayer pays so much and the plasterer so much, each trade is different in the amount to be paid.

THE COMMISSIONER: Do the builders generally insure against accidents?

MR. NUTKINS: As a general rule, sir.

THE COMMISSIONER: The men that have shops?

MR. NUTKINS: I could not say about the shops. I am not interested in the shops.

THE COMMISSIONER: I mean builders who have shops. I suppose all of them have more or less shops, some with considerable machinery in them, turning out stuff for their buildings. Do you think they generally insure?

MR. JONES: I think so.

MR. NUTKINS: Yes, sir.

THE COMMISSIONER: What do you pay as a premium?

MR. JONES: It is different.

THE COMMISSIONER: For outside work you pay more than for inside?

MR. JONES: They charge more for a plasterer than for a bricklayer.

MR. NUTKINS: One per cent. for a plasterer, and it runs from 1.32 to 1.36 for a bricklayer.

THE COMMISSIONER: How much for a carpenter?

MR. NUTKINS: That is graded.

THE COMMISSIONER: Outside and inside?

MR. NUTKINS: Yes, the millmen are graded from the outside. There are carpenters here.

MR. MARTIN: I think it is forty cents for a millman.

THE COMMISSIONER: They pay more than that in Toronto. I have a statement from Mr. Dillon there. I think they pay 40 cents for inside men and for the outside men nearly four or five times that, that is, men working on scaffolds and that kind of thing.

Do you think a law which made the employer liable, regardless of his negligence or want of proper appliances, a reasonable law?

MR. NUTKINS: The way I look at it is this: you insure the man, and supposing the man meets with an accident on a building, if you are human you would send him to the hospital and get a doctor. You pay his insurance, and when it comes to you you fill out a form. Then they turn round and say, if he sues you we will defend it. You don't get anything for the man that is hurt. You pay the doctor's bills and the hospital's fees and at the same time you are paying insurance rates.

THE COMMISSIONER: Yes, I suppose that is often so. They won't pay anything until they are made to.

MR. NUTKINS: I don't think that is square. The employee expects to be insured to-day.

THE COMMISSIONER: Then your difficulty about insurance is that they do not pay promptly and it does not get to the right quarter quickly enough?

MR. NUTKINS: If an employer insures a man, I claim he should get what he pays for.

THE COMMISSIONER: Surely they do not all insist upon a suit being brought?

MR. NUTKINS: As a general rule the settlement don't come about unless they force it. I myself am in favour of Provincial or Government insurance. Then there is this point, a big corporation takes so much per cent. off the man's wages; a small firm can't do that.

THE COMMISSIONER: Their proposition is not to take anything out of the men's wages. It all comes out of the employer.

MR. NUTKINS: Still, that is where the corporation has it on the small firm.

MR. STRATFOLD: I think the law as it stands is not unreasonable. I pay so much money myself for wages during the year. I think it is 50 cents or whatever it is for $3,000. I couldn't say exactly what it is. I saw a case here a short time ago where a man pinched his finger. He should never have got anything for it, but he wanted something. I think the way it stands now is that a person furnishing proper appliances has no trouble at all.

THE COMMISSIONER: They say that 35 per cent. of the accidents at least are non-preventable; that those are incident to the rapidity with which work is done nowadays. That is taking all the industries together. A man has to work under a good deal of stress in these factories. Then the difficulty about the present system is that there is always a contest as to whether the workman contributed to the accident. Nearly all the litigation is about that. They propose to eliminate

that difficulty, and say although the workman has been careless he should nevertheless be compensated for the injuries. That is their proposition.

Have you met the same difficulty about insurance companies not being prompt in settlement of losses?

MR. STRATFOLD: Well, I have never had any accidents owing to myself.

MR. CHARLES GOULD: Then, sir, no matter how careful we are with our scaffolding, we may pick the scaffolding over very carefully and send it to the building and some other trade may use our scaffolding and possibly throw it down instead of lowering it, and crack a plank and our men use that plank and walk on it, and we are responsible.

THE COMMISSIONER: Under the law as proposed you would be. Of course what is said is that to insure against these losses is not a very heavy tax upon the industry; but it is a very serious thing if a man is injured, to him and his family.

MR. MARTIN: The great trouble with the present law is that while we are paying for protection, and we are entitled to get it, we also want our employees to be protected. That is, that if a man is entitled to anything if he has met with an accident, there is no way for him to get anything unless he sues the company, and, as Mr. Nutkins says, in the case of an accident we must use first aid and help the man out and to a certain extent that has been construed as an accessory.

THE COMMISSIONER: An admission of liability?

MR. MARTIN: Yes. I don't think that that is the proper thing, but that is one of the biggest difficulties to my mind.

THE COMMISSIONER: Is your experience the same as Mr. Nutkins, that nearly always these claims are resisted?

MR. MARTIN: I think that in over 50 per cent. of them they are.

THE COMMISSIONER: The difficulty about the State insuring at the expense of the employers would be the machinery for collecting the premiums. I do not know whether it would be possible to devise a scheme that would not involve an army of tax collectors. As they propose it, it applies to the man who has one employee. It is not confined to the large factory. Applying it to this city, to go around and collect from everybody employing from one man up would be a pretty serious business.

MR. MARTIN: Still the insurance companies employ the same means.

THE COMMISSIONER: But you go to the insurance companies.

MR. MARTIN: No, sir; they send a man around and inspect the pay-roll every year.

THE COMMISSIONER: I do not suppose they bother themselves with a little one.

MR. GOULD: That is where the trouble is to-day, I think, where the workman is really not insured in the majority of cases. The smaller employer does not insure and in very many instances he is not worth suing and the employee has no chance of getting anything, so that really the law is of practically very little use to the employee, as well as a burden to the employer.

THE COMMISSIONER: The British law would not help at all because it leaves you individually liable. The law by which the State insured would be a different thing.

MR. GOULD: The only way to help that would be to compel every employer to insure his men, make it compulsory.

THE COMMISSIONER: What would you do with a man that is not worth anything, that you could not collect the premium from?

MR. GOULD: He should not be in business.

THE COMMISSIONER: You would have to put him out of business.

MR. GEORGE GOULD: Could not the onus of collecting be put on the operative?

THE COMMISSIONER: I do not know. I would not want to be an operative and have to go and collect the premium from my employer.

MR. G. GOULD: Make it compulsory that a certain percentage of his wages should apply to insurance.

THE COMMISSIONER: They do not want that. They do not want to contribute a cent.

MR. GOULD: They want to be insured but do not want to pay for it.

THE COMMISSIONER: They do not want to pay for anything; they want the whole burden to be on the industry.

MR. G. GOULD: Could not the employer pay it and add it to their envelope?

THE COMMISSIONER: Don't you think there would be a little friction if they did not find their money in the envelope.

MR. GOULD: If they did not find their wages there, what could they do?

THE COMMISSIONER: Wages are a different thing. Do you think it would be practical through the municipal organization, through the tax collector, to put the burden upon the municipality of collecting the taxes? Do you think that could be worked?

MR. G. GOULD: How does the Washington Act work?

THE COMMISSIONER: It is experimental. It has only been in force since October and they have a Board appointed. Apparently that Board collects throughout the State, but it is not known how that will work. There they had a Commission composed of employers and employees, and this is a measure that they unanimously agreed upon. There is a schedule of the rates. It does not cover all trades.

MR. MARTIN: That is really insurance, of course?

THE COMMISSIONER: That is State insurance. The man looks to the State for his money.

MR. MARTIN: To my mind that is the proper thing. It is insurance we want.

THE COMMISSIONER: The trades run all the way up from powder works.

MR. G. GOULD: Another thing the builders object to, sir, is that the expense of litigation is too much, and that actions arising from accidents should be tried by a judge without a jury.

MR. MARTIN: That leads up to another question. that many actions are taken by irresponsible people against contractors, and the contractors are generally soaked for the law costs.

THE COMMISSIONER: What has been the experience of the gentlemen here? How many times is the most that anybody has been sued or had a claim made? Is there anybody here who has had half a dozen claims made?

MR. MARTIN: I have had two or three. Two went to court.

THE COMMISSIONER: With what result?

MR. MARTIN: In both cases the plaintiff lost. In one case it cost this poor fellow about $175 to pay the costs of it.

THE COMMISSIONER: The costs of the employer?

MR. MARTIN: Yes. In the other case the insurance company defended the suit.

THE COMMISSIONER: Under this law a great many of these difficulties would be avoided. Because at present it is only in a limited number of cases that the employer is liable. They would make him liable in almost every case, under the British law, so that practically it would mean if an accident happened that there is a claim.

MR. MARTIN: There has been considerable in the paper with regard to this British law and I suppose lots of it has been caricature, and one thing and another, in regard to servants and everyone else. Are they all affected?

THE COMMISSIONER: It applies to domestic servants and agricultural labourers. Our present law does not, nor did the law as the Bill was introduced into the House by Mr. Gladstone—that is the younger Gladstone—it had the same exception, but the House apparently struck that out and made it general.

MR. MARTIN: That is only an experiment, practically speaking, over there I presume?

THE COMMISSIONER: Since 1906. It is founded on the old law, extending the liability of the employer.

A great many of the States have employers' liability and compulsory insurance, compelling every employer to insure, either in some cases with the State insurance organization or with a private corporation if he so elects.

MR. MARTIN: What kind of insurance is that? Accident insurance?

THE COMMISSIONER: Accident insurance. Of course the rates would go up a good deal if the liability was extended. The representative of the Ocean Accident and Guarantee Company, one of the largest English companies, was examined and he said the result has been in the Provinces in which they have increased the liability of the employer that the rates have gone up very considerably.

What do you think of the theory that it is not the employer that pays, it is the consumer that ultimately pays all these things? I suppose if you have to pay $50.00 or $100.00 a year for insurance you have to get so much more money out of the people, have you not?

MR. MARTIN: That would not be so bad if that is all we have to pay, but when we have to pay out a couple of thousand dollars besides that, it comes pretty heavy.

THE COMMISSIONER: If you had proper insurance why would you have to pay that?

MR. MARTIN: There is no reason why we should if we had proper insurance.

THE COMMISSIONER: I understand that these companies do not on the ordinary rates insure more than $1,500 upon a single life, a single case and they will not insure more than—if I have not forgotten the number—ten in the one accident.

MR. MARTIN: Yes, sir, $10,000.

THE COMMISSIONER: And is $1,500 the limit in each case?

MR. MARTIN: I think it is.

THE COMMISSIONER: There are to be some meetings in Toronto next week, and the Manufacturers' Association, which is a very large and powerful organization, apparently has gone to a good deal of trouble and expense in getting people of eminence to appear and give evidence before the Commission. You will have the benefit of seeing what they say. I suppose it will be reported in the newspapers.

What kind of feeling is there between the labour organizations and the employers in this locality? Is it friendly or hostile?

MR. G. GOULD: Friendly.

MR. MARTIN: Very friendly. That is as far as the building trade is concerned.

THE COMMISSIONER: That is the way it ought to be.

MR. CHAS. GOULD: One trouble is, if there were three accidents in the city during the year, those three accidents might fall on one man. If it was distributed over the whole of the building trade it would not come so heavy, and we would not be in so much fear. At present we may have a load to carry and no one else carry anything.

THE COMMISSIONER: If you were properly insured that would not occur.

MR. GOULD: Even then there is a certain amount of incidental expense that you cannot get away from.

THE COMMISSIONER: One of the things that is said to be a defect in the insurance scheme is that the man who has the best machinery and appliances, and takes the greatest care to prevent accidents, pays as much as the man who is careless. No doubt there is something in that.

MR. SIMPSON: Seeing that the insurance man will only pay a certain limit, is the law limited with regard to these accidents?

THE COMMISSIONER: The amount is limited under the act. It is not limited if there is what is called common law liability. The law now is three years' wages in the same employment that the man is in at the time of injury, of $1,500, whichever is the larger sum. That is the maximum that can be recovered.

Are there any gentlemen here now representing the artisans, the labour organizations?

MR. JAMES A. BASTLE: Yes, sir, I am President of the Trade and Labour Council. I am not well versed in the Compensation Act. I have heard what these gentlemen have said. They seem very fair in their remarks, towards the labour men.

THE COMMISSIONER: Do you represent the District Labour Council?

MR. BASTLE: The city.

THE COMMISSIONER: Have you ever thought of getting the employers and employees together, the representative bodies and discussing this matter?

MR. BASTLE: We have not. It would be a good idea though.

THE COMMISSIONER: What the labour men in Toronto are saying is that they are very anxious to have the law passed in the coming session; so that they are opposed to anything that might mean delay. I would be very glad if the two sides would get together, and if they could agree upon something that they thought desirable it might be a help.

MR. BASTLE: As soon as we get well posted on what this act is to be.

THE COMMISSIONER: We do not know what it is to be yet. What is asked by the labour men in Toronto is the British Act. That practically means that if a man is injured in the course of his employment, from something caused by his employment, regardless of his own negligence he shall be compensated, with a limit as to the amount. They have not suggested the limit. Also they would eliminate what is in the British Act, that where the accident arises from the wilful and serious misconduct of the man who is injured that there should be no recovery by him. The British Act has two exceptions to that: if he is killed or seriously and permanently disabled his family are entitled to be compensated although the accident was caused by him. It is difficult to say how one can justify compensating a man in a case like this: take a railway engineer who deliberately disregards a signal; he sees it and passes it with his eyes open, and the result is the train is wrecked and hundreds of thousands of dollars damage done, and perhaps lives lost, that he

should be entitled to say to the railway company, "Pay me because I broke my leg." That does not seem very just, but the answer they make is that his family is not to blame.

MR. BASTLE: I should think where a man is the cause of an accident himself he should not be paid for it.

MR. MARKS: I think in the case of a railroad it is known by railroad men that when a railroad engineer dies in a collision, the blame goes on him, where if he could be heard in his own defence a different story would be told. My father was a railway engineer for years and I have had communication with railway men, and my belief is that if an engineer were to live up to the regulations he would be told to take his walking papers. In fact railroad men believe that rules are put in the rule book on purpose to catch them in times of accident. I have heard my father—and I had every confidence in him—discuss these things and say that he had been in collisions where the only thing that saved him from being blamed was that he happened to be alive; if he had been killed he would have been brought into it.

THE COMMISSIONER: What was his name?

MR. MARKS: George Marks.

THE COMMISSIONER: He got his leg broken two or three times did he not?

MR. MARKS: Yes.

THE COMMISSIONER: You hardly mean that the railway companies deliberately put these things in to catch the men? They do not do that?

MR. MARKS: I believe they do, some of them. I believe that officials of the railroads, to save the company, they go as far as they can. If a man is killed and there is any way of getting out of the responsibility by blaming him, they are going to get out of it. Not only that but dozens of railway men have told me they have had to appear as witnesses in cases where suits are brought, and those men themselves would tell you they dare not say what they would like to say or really should say.

THE COMMISSIONER: If such a man belonged to the order of trainmen, ought he not to be expelled if he were not man enough to tell the truth?

MR. MARKS: That is a pretty hard thing to say.

THE COMMISSIONER: I think the Order of Trainmen is strong enough to back its men up.

MR. MARKS: The trouble is this, your Lordship, that while a man cannot be discharged for giving testimony or anything of that kind, still a man who testifies against a railway corporation will not be discharged for that specific thing, but the company will soon have an excuse a little later on for something or other and he will pay for it. Whether it is true or whether it is false that idea is in the minds of the men.

THE COMMISSIONER: I have no doubt that is so.

MR. MARKS: And that influences them when they come into a court of law to give their evidence.

THE COMMISSIONER: In the British Act the only exception is serious and wilful misconduct. That means a good deal.

MR. MARKS: I am satisfied that in the city of London here, they are practically of the same opinion as in the city of Toronto; they believe that the British law is about the best law that has been enacted so far. Personally I believe that a business should carry the risks. Now I believe that as a rule the employers and employees want to act fair and they want to get down to some fair basis where injuries occur and that the compensation should not come too heavy on the employers or employees. Now there is no doubt you are pretty well versed in these

matters and know that a large number of the countries of Europe, that is Norway, Sweden, Great Britain, Germany, Holland, Belgium, Italy and those places, there are 51,900,000 men come under these Compensation Acts and in the majority of those places the law is something like Great Britain, that is in regard to insurance, voluntary to a great extent, but in one or two of these places it is compulsory on the part of the State that the employers must insure. Now if we take into account the large amount of money expended in litigation, a good deal of that money could go towards paying the injuries of the men without litigation. Mr. Roberts, an English member of Parliament, in this neighborhood a short time ago, said that when the English law first came into vogue there was a great deal of litigation, a large amount eaten up in that way, but after the amendments were made the way the law is at present, he said there was practically no litigation in Great Britain at all. That is all saved.

THE COMMISSIONER: That is a little optimistic. There is a good deal of litigation yet but not nearly as much as there was under the old system.

They might get in this country a system such as the British Act seems to contemplate as existing there; that in, say the building trade, the carpenters or bricklayers or whatever it is, that they have a joint committee to which is submitted any claim of this kind. Why would not that be feasible here instead of having all this trouble? I do not overlook the fact that you have the insurance company to reckon with, but the first thing there is this kind of conciliation committee of the employer and employed in the particular trade. Then if that fails, arbitration; then finally the decision by a County Court judge without a jury.

MR. MARKS: I believe in a great many cases if the employers and employees got together more frequently than what they do and discussed these questions, they could come to a better understanding than the present way, where they keep so far apart as a rule.

THE COMMISSIONER: One trouble in this country is that there are some men—and I think they are the worst for the country and its artisans—who have the idea that the proper condition of things between employer and employed is war, that it must be eternal war. That is a very bad starting point.

MR. MARKS: It certainly is.

THE COMMISSIONER: I had one man—I will not say where it was—who thought that was a fine thing; he only wanted the law as the thin end of the wedge. He was a socialist, he said, and he thought wars generally were not bad, they generally did a good deal of good, a kind of clearing-house. However, fortunately, that is not what I find to be the general opinion. I think I ought to say to you that here you seem to be in a much more—I do not mean rational—but a more satisfactory state of mind at all events, the employers and employed, than I have found anywhere else.

MR. MARKS: I think I may say, your Lordship, that there are a great many employers of the city of London that the artisans think a great deal of. We have found a great many of them that are very fair and liberal-minded men, men very easy to get along with and willing to listen at all times. I believe, take it as a rule, that relations are on a friendly basis in the city of London.

THE COMMISSIONER: That is a good thing.

What do you think of an effort being made to get the employers and employed together and discuss the lines upon which a measure should be framed? Not getting down to the minor details but the broad, general lines.

MR. MARKS: Personally I do not think that is a bad idea at all.

THE COMMISSIONER: You have a paper that addresses the community, have you not?

MR. MARKS: Yes.

THE COMMISSIONER: If that sounds reasonable, I wish that someone would try to start it.

MR. BASTLE: I will take that under consideration and in the near future call the employers and employees together at a special meeting. I think that would be a good thing for their benefit and ours.

MR. GOULD: Have it include all employers, manufacturers and so on.

MR. BASTLE: Issue a general invitation. The Trades and Labour Council represents all trades, and the different employers could express their opinions and get our opinions, and come to some general idea or some good feeling among ourselves.

THE COMMISSIONER: There is some talk of starting a mutual insurance company of all the manufacturers. I do not know whether that is going on or not, but that was mentioned at one of the meetings. Of course if they had a mutual insurance company they would get rid of a good many of the difficulties that have been spoken of here.

MR. GOULD: Has any action been taken by the provincial authorities?

THE COMMISSIONER: No, it was the manufacturers uniting and forming a mutual insurance company to insure themselves.

MR. GOULD: Has there been any conference between the employers and employed provincially.

THE COMMISSIONER: There is not time for that. The next best thing would be to do it locally. You could do it more quickly. I do not know whether it will be possible to have a bill ready for the House, which will meet sometime next month, but I am anxious to do it if I can.

MR. C. GOULD: Would it be possible to get all the employers together? Would not the building trade need to follow a different line from the manufacturers? Could they work together? Would their interests clash?

THE COMMISSIONER: I do not know how that is. There is a manufacturers' association in Toronto. Is there here?

MR. C. GOULD: Mr. Gartshore is here, he can tell you.

MR. GARTSHORE: There is no association here, sir.

THE COMMISSIONER: Do the building trades belong to the Canadian association?

MR. GARTSHORE: I think not, sir.

MR. MARTIN: We have a national association of our own, sir. A national builders association.

THE COMMISSIONER: But your interests are common are they not? All employers and employed, their interests must be about the same?

MR. MARTIN: I would think they run very nearly alike.

THE COMMISSIONER: Well, Mr. Gartshore, can you give me any light upon this difficult subject?

MR. GARTSHORE: I have had a good deal of experience, I am sorry to say, in accidents. I have some ideas on the subject too.

THE COMMISSIONER: I shall be glad to hear them.

MR. GARTSHORE: I think the conditions as they are now are not satisfactory to either the employer or the workman. If a man is injured he goes home and remains there until he gets well, which may extend over a period of weeks or months. During that time the manufacturer cannot approach him without prejudicing his

own case. The consequence is he is out of work and out of money, and his family is suffering.

It seems to me that if any act is passed it should provide that the man should have instant revenue of some kind coming in.

If the employer approaches the man with a view of settlement, it may prejudice his case. At the same time, as a rule the insurance companies do not authorize you to take action. I could cite cases where men would have been glad to settle in a short time and it would have been much to their advantage, but the matter dragged on for months, the case came into court and was tried, and then carried to another court, and meantime the family was suffering.

I have taken a few notes of suggestions that I have. I do not know whether they will meet with approval or not.

I agree that the men should be compensated. Also that they should pay no fee towards their insurance.

As it is now the only recourse we have is to insure and leave the onus on the insurance company. I think that immediately a man is injured he should receive part pay, part of his wages. I would not like to say how much, because nearly all men are insured in some society or benefit organization. To give a man all his pay would put a premium on dishonesty, because he might be receiving more when he was sick than when he was well. He might receive say half his pay from the time of his injury and it should be paid weekly to him, and not to exceed a period of say three months. Medical attendance and medicines meantime free.

He should be examined by a doctor from time to time in the interests of the company, and should be required to return to work immediately the doctor reports him fit.

Fixed compensation should be determined on his report to duty; based on permanent injury if any, and the effects if any on his earning capacity, and any effect on his constitution if the direct result of the injury.

Compensation should not be in a bulk sum, but in regular payments properly secured. My experience has been in many cases that where a man received a bulk sum it was frittered away and was of very little use to him, and he was shortly in as bad shape as ever, and not able to work.

The compensation should be such as will preserve the harmonious relations between employer and employed. Such relief systems as are at present in force should be preserved and the creation of a further voluntary system should be encouraged.

You are aware, Sir William, that some companies have already an arrangement whereby they effect a settlement with their own men and do not insure. I have had ideas in that line but have deferred taking any action because of the legislation that is suggested.

THE COMMISSIONER: Let me interrupt you there. The British Act provides that where there is an arrangement between an employer and his employees, which is approved by the registrar of friendly societies as a reasonable one, that that takes the place of the compensation provided by the act.

MR. GARTSHORE: I think that would be very proper. I can cite a case in which a man was injured comparatively slightly, but an artery was cut. If he had not received first aid and intelligent attendance he might have died from loss of blood. Receiving that promptly and being bandaged properly, he was able to go back to work immediately. I think where companies make these provisions and where the employees are willing that settlement should be affected, as you say subject to the approval of the department, that it would be wise to provide for that in the act.

THE COMMISSIONER: Who is the representative of the St. John Ambulance Corps?

MR. GARTSHORE: We have a branch in the city.

THE COMMISSIONER: Is he a member in your employment?

MR. GARTSHORE: We have several of them. We encourage every man to take that course.

THE COMMISSIONER: An unfortunate man was killed the other day, and a charge of murder has arisen out of it. An artery was severed and no one was able to attend to him and he died. His injury might not have been very serious if promptly attended.

MR. GARTSHORE: A qualified person can stop the flow of blood until a doctor arrives.

THE COMMISSIONER: The great difficulty of the present system, everyone seems to agree, is the large amount that is wasted between the insurance company and the man that is hurt. So much of it is spent one way or another. First the expense of getting the insurance, which is very considerable. Then the amount expended in litigation.

MR. GARTSHORE: If we paid the amount into a fund that we pay the insurance companies, we could compensate every man who is injured, and he would receive double the amount he does now, on an average. And the expense of insurance and legal proceedings would be avoided. It is plain that I am not here in the interests of the legal profession.

THE COMMISSIONER: They will always take care of themselves. Would it be practicable in a large establishment like yours for a committee of the employees and a representative on your side to adjust disputes as well as compensation?

MR. GARTSHORE: I think there may be disputes that could not be settled and that there might be some court to which these could be referred as a last resort. But nine-tenths of the actions could be settled in that way to the satisfaction of all concerned.

THE COMMISSIONER: Then you do not see any objection, as I understand you, Mr. Gartshore, to making the industry bear the burden of the accidents incidental to it?

MR. GARTSHORE: No, none.

THE COMMISSIONER: Is anyone with you or representing the same phase of the question?

MR. GARTSHORE: I have not consulted anybody on the subject, Sir William. The Chairman of the Board of Trade is here.

MR. REESOR, (Chairman, Board of Trade): Speaking for a good many of the members of the Board of Trade, I think the conference that has been spoken of would be a splendid way to arrive at some conclusion. The trouble up to now has been that we have not had very much to work on.

THE COMMISSIONER: I will be very glad to send a copy of this Washington Act, and copies of the British Act will be available for you here.

MR. REESOR: I think we have copies of the Washington Act.

THE COMMISSIONER: The Washington Act, I think, will require a little consideration. There is a good deal of pressure to introduce that here supplementary to Workmen's Compensation. State insurance will have to be thought out very carefully before it is adopted.

MR. REESOR: A great many of our members feel that the present method is rather cumbersome and leads to antagonism between employers and employed when

there should be no occasion for it. Because the insurance companies will always fight a case under the present system.

THE COMMISSIONER: May I ask you Mr. Marks, or you Mr. President, whether when a man is injured the labour organization to which he belongs does anything to help him in his case? To assist him in getting his case presented and getting it satisfactorily settled? Or do they leave it to himself?

MR. BASTLE: That is a point that I have never heard discussed before. Some organizations have an insurance for their own men.

THE COMMISSIONER: Yes, but I mean this: a man is injured; he belongs to the carpenters' union.

MR. ARCHER: I do not think that is done, sir.

THE COMMISSIONER: Why should it not be done?

MR. ARCHER: I do not know. The feeling seems to be that it is a case of antagonism existing between the employer and the union to which this man belongs. I do not think it is that at all; I don't think the union desires to get something out of the employer, which he does not think the man who is injured should receive. I think it is purely a question between the person who is hurt and the man he works for, to tide him over or give him assistance during the time he is incapacitated. I think it would be a deplorable state of affairs if the union took his case up, because there would be that feeling of fighting and goodness knows there is enough trouble between labor organizations and employers now.

THE COMMISSIONER: I would have thought they might advise him to be reasonable. He might get bad advice outside the organization.

MR. ARCHER: It might be but I hardly think so. It would be a continual source of strife all the time, that the labour organization is getting this, and the other side might say the man did not want it but it was a chance for the labour organization to fight the employer, which they don't want to do, and it would keep that thing going all the time.

MR. MARKS: I believe there have been instances in which organizations have come forward and assisted the man when they thought it necessary in bringing the case before the law. But different organizations have different rules and a man is not competent to speak for more than the organization he belongs to himself. Of course the men in these organizations have sick and disability benefits, and they come under them.

THE COMMISSIONER: Why could not the bricklayers union have a committee that would meet with a committee of the builders or master bricklayers and deal with a case of a claim for compensation, say whether it was right and how much should be paid?

MR. MARKS: I cannot see anything to stop them. I think that could have taken place years ago but apparently they have never come together on those lines as yet.

MR. MARTIN: I think, Sir William, the biggest reason why that is not done is because some lawyer gets after them too quick.

MR. NUTKINS: I think it is feasible enough, but the employee really expects to be insured. I have heard of cases where a man has asked the question, "Have you got me insured?" as soon as he met with a little accident. Of course if you pay for a man's insurance he should get what you pay for. If you go to a grocery store and buy a barrel of apples and they give you a peck, I know I would kick about it. We all would. If we pay for insurance we should get it.

MR. MARTIN: We are getting mixed up on that expression. We are not pay-

ing for insurance. It is protection we are paying for. Insurance is really what we ought to have, but at present we are just protected from lawsuits.

THE COMMISSIONER: You are indemnified against paying.

MR. MARTIN: Personally I would like to see a mutual insurance company society. I mean both as employers and employees.

THE COMMISSIONER: A case occurs to one, such as this. A prospector in the Cobalt region goes out and takes two men with him. An accident happens, an explosion or something. If the two men are injured they have a claim against the employer under the act. The employer is injured in the same accident a great deal more than they are but has no claim against anyone, he is the sufferer all around. It is pretty hard to get a system that works evenly.

MR. MARTIN: There is another case which happened recently. You may have noticed a report of it in the paper. A contractor putting in stairways in a new building. His own men are insured against accidents or against his own negligence. One of his men was injured very seriously by a workman under another contractor. The employer of the injured man had him conveyed immediately to the hospital and agreed to be responsible for the bills there, contrary to the provisions of the insurance of course. The only person the man could recover any damages from was his own employer, and his employer would have to be out certainly, the hospital fees, and he has no insurance; he cannot come on the insurance company because his employee was not injured by a fellow employee but by someone else. There is something there that does not appear straight to me.

THE COMMISSIONER: It may be that he is not liable in that case. There was a case something like that disposed of within a year or two. A bricklayer and a carpenter. The bricklayer had put up his gangway to go into a building safely. The carpenter had moved it for some purpose. The workman going in in the morning thought it was all right, just as it was the night before. The first thing he knew he was down in the basement and pretty badly injured. He sued his employer but failed. The employer had put a proper gangway there and someone else had interfered with it.

MR. MARTIN: That was a hardship for the man; he had no rights.

THE COMMISSIONER: It was very hard, undoubtedly.

MR. C. GOULD: At the same time, I suppose it cost the employer quite a bit to find that out?

THE COMMISSIONER: No doubt it did. He had to get up to the second court before he ascertained that. However, there is always the consolation that we, the great consumers, pay all this. It is not the builder that pays in the long run.

MR. C. GOULD: The individual builder does. The trade as a whole may not.

THE COMMISSIONER: He has got to make ends meet; make someone pay.

MR. C. GOULD: He may go to the wall.

MR. MURRAY: And then someone pays.

MR. C. GOULD: When will this be presented to the House?

THE COMMISSIONER: I do not know. It cannot be presented until I get ready, but they want it to be ready very quickly. My own idea is, if we could persuade the workmen to wait a little longer, it would be better to wait and get a better measure, rather than to have something half-baked.

MR. MARTIN: It would be better to have a measure agreeable to all parties rather than to have the thing fought out.

THE COMMISSIONER: What ought to be swept away as quickly as possible is

the doctrine of common employment. That is a relic of barbarism. And there ought to be a modification of the doctrine of contributory negligence on the part of the workman. I am very glad to hear Mr. Gartshore's broad view of what ought to be done. What is required is, not to hurt the employer too much, and to give the employee as much as possible. That is the great desideratum. Have you considered such a scheme as this Washington Act, Mr. Gartshore?

MR. GARTSHORE: I have read it over.

THE COMMISSIONER: How does it strike you as a first impression? Would it be practicable to work a measure of that kind here, the State undertaking to collect the tax?

MR. GARTSHORE: I think all questions of this kind, whether concerning operatives, domestics or farm labourers, no matter what class, should be all under the same act and the employer liable in the same way. I do not see why a man running a threshing machine should not be protected as well as a man running a planing machine.

THE COMMISSIONER: Is there not something to be said on the other side there? The theory in the first place was that this was to protect workmen in hazardous trades. There is not much hazard in the occupation of a domestic servant.

MR. GARTSHORE: No, and there is not much liability. There are not many accidents. But as far as agricultural labour is concerned it is getting to be largely mechanical.

THE COMMISSIONER: The farmers of this country would raise an awful row if you attempt to tax them in this proposed measure.

MR. GARTSHORE: No doubt; and the average politician is catering for their vote.

THE COMMISSIONER: I have noticed a tendency on the part of the manufacturers' association to try to make up to the farmer.

MR. GARTSHORE: I am told that 40 per cent. of the accidents happen on farms.

THE COMMISSIONER: Mr. Waldron made a statement about that. I should doubt those figures. I do not know where he was reading from. It is a very large number.

MR. GARTSHORE: They have traction engines, and nearly all their machinery is now run by power.

THE COMMISSIONER: What do you think of this case: A farmer employs a man and pays him good wages. The man is in the stable attending to a quiet horse. Something happens and the horse throws out its heels, hits the man and breaks his leg. If you ask a farmer to pay compensation for that he would think you were mad. It is no fault of his. Perhaps it would ruin him if he had to pay it. That is the way they look at it.

MR. GARTSHORE: If the man were working for a builder, he would be liable.

THE COMMISSIONER: But you see the farmer cannot stick it on to anybody. His market is fixed. With the manufacturer it is just one of the expenses of the industry.

MR. REESOR: What about the victim of this farm accident? It is just as painful for him to be kicked on a farm as anywhere else.

THE COMMISSIONER: Logically that is so, but logic does not always prevail in this world. There is a good deal of opportunism instead. We have to propose a measure that will pass. There is no use proposing a measure that will be

sure to be defeated. I recollect when this employers' liability was introduced a good many years ago, the representatives of farming communities were very strong about keeping the farmers out. They would not listen to it at all. Then you see in nine cases out of ten they do not need an act of that kind because the farmer is generally the boss, superintending the operation, and if there is any negligence it is his negligence, and this doctrine of common employment is out of it altogether.

MR. REESOR: Are the Provinces of Canada dealing with this measure individually?

THE CHAIRMAN: Yes.

MR. REESOR: Is there no Dominion measure?

THE COMMISSIONER: I do not know whether it would be competent for the Dominion to pass a measure of that kind. I had a circular sent to me by the Secretary for the Colonies—the Colonial Secretary—expressing the wish of the British Government that if possible all the British Dominions should be under similar laws with regard to questions of this kind. That is a very big proposition. They have different laws in all the Provinces. The law of Quebec is modelled somewhat on the French law. Manitoba, I think, has something like the British law. British Columbia also. That is one of the difficulties. The manufacturers say if you have an onerous law in one Province it handicaps to that extent the manufacturer with his competitors in the other Province.

MR. GARTSHORE: Provision should be made, I think, so that automatically a man will receive some remuneration promptly before the case is dealt with; otherwise he is in great distress. And provision should be made for settlement between employer and employees. I think that ought to be encouraged.

THE COMMISSIONER: You have had a little experience. What do you find when you have a lawsuit; how does it come out generally? Is it some lawyer getting hold of the man?

MR. GARTSHORE: Practically as soon as an accident happens the man is followed by one or more lawyers, and his case taken, I am informed, without any liability to himself. I do not know whether that is the case or not. I know a great many of these parties have no money to pay anybody, so that the lawyer could not collect anything.

THE COMMISSIONER: You see that is the humanity in the lawyer who takes up the poor man's case.

MR. GARTSHORE: Then, again, after the costs are paid there is very little coming to the injured man.

THE COMMISSIONER: No doubt. There is a case tried at this court where when they have got through fighting over the amount, there will be very little left for the man if he succeeds. Are the working men here very much enamoured of having their cases tried by a jury? In the British law there is no jury.

MR. BASTLE: In my opinion, if tried by a jury the jury would be in favour of the working man. That is, not in favour of the employer. Whereas, if tried by a judge, the judge will be fair and just to everybody; he will take the opinions of both sides, and I think his opinion will be fairer than a jury's opinion.

THE COMMISSIONER: In England it is tried before the County Court judge, and there is no appeal from him except on questions of law. When he settles the facts that is an end as far as the facts are concerned. What do you think of that, Mr. Gartshore?

MR. GARTSHORE: I think that should be satisfactory to both parties.

THE COMMISSIONER: I think you are right, that the sympathies of the jury, nine times out of ten, are with the workman.

MR. BASTLE: The unions are always in favour of having things fair between employers and employed. We would like to see good fellowship between them instead of this continual strife that you say the socialists look for. That is one thing the unions are very much against.

THE COMMISSIONER: Have you many socialists in London?

MR. BASTLE: No, sir, we do not deal with them. We think they are bad people. There are two or three here, but they are not interested in unionism.

THE COMMISSIONER: There are two kinds of socialists. There is a very bad kind, and another kind not quite so bad.

MR. JONES: We have one very good one right here, Mr. Gould. He is a very good one.

THE COMMISSIONER: Are you sure you mean a socialist, or do you mean a single taxer? That is a very different story.

MR. REESOR: We had a case last month where a teamster was driving along a street that was torn up. A box fell off his load and struck a third party who was on the sidewalk. The third party sued the owner of the team, and the jury, an ordinary jury of twelve men, brought in a verdict that the owner of the team was not to blame in any way, but that the plaintiff should get $150. The judge said that is rather strange, you must say what you mean. Well, they said, we give him $150. The defendant, who knew some of the jurymen, said that was hardly fair to him. In their finding they said it was caused by the condition of the streets, and therefore the defendant is in no way to blame, but we will give the man $150. So they were sent back and they gave the man $150 in another form. Afterwards the jury told the defendant, well we gave him $150 because it is the city's affair, and not yours anyhow. That leads up to this question, that this proposed law would not cover a third party.

THE COMMISSIONER: No, it is only between employer and employed.

MR. REESOR: It would be open for litigation on that point.

THE COMMISSIONER: Yes. The only ground on which that man could have been made liable was that the driver was negligent.

MR. REESOR: It was proved that he was not. And of course the driver was not worth it if he had been sued.

THE COMMISSIONER: Well, gentlemen, is there any more light I can get from you? I am here to stay as long as I can be of use. I am very much obliged to you, and I am very glad to see the spirit that prevails and I hope the result of further deliberation will lead to your agreeing upon something to recommend to me.

SEVENTH SITTING.

LEGISLATIVE ASSEMBLY, TORONTO.

Thursday, 18th January, 1912, 10.30 *a.m.*

PRESENT: SIR WILLIAM R. MEREDITH, *Commissioner.*
MR. W. B. WILKINSON, *Law Clerk.*

THE COMMISSIONER: Mr. Wegenast, if you are calling witnesses as to facts they had better be sworn, but if it is simply opinion evidence they need not be sworn.

CANADIAN MANUFACTURERS' CASE.

MR. WEGENAST: My intention was to first outline our position by way of a preliminary statement, and to support that by a brief that is not yet quite complete. I will hand you the brief subject to some additions which I would like to make later.

THE COMMISSIONER: A suggestion has been made to me that the manufacturers of Hamilton wish to be heard separately.

MR. WEGENAST: I had a communication from one of the manufacturers in Hamilton, who thought it would be more convenient for some of them if they could be heard at that city. It is not entirely essential, so far as we are concerned, but it would be merely a matter of convenience.

THE COMMISSIONER: I will arrange for a meeting there.

MR. WEGENAST: There are a number of members of the committee who have been in charge of this matter for the Manufacturers' Association in different parts of the Province, who have found it difficult to appear here at the times fixed for hearings, and I think it would be convenient if a meeting could be held either at Brantford or Hamilton.

THE COMMISSIONER: Hamilton will be the place.

MR. WEGENAST: I may say that our Association represents in the neighbourhood of eighty or ninety per cent. of the manufacturers of the whole Dominion.

THE COMMISSIONER: That is the large manufacturers, I suppose.

MR. WEGENAST: Those who come within the qualifications necessary for membership. It is necessary for a manufacturer to employ at least five persons in some branch of actual manufacturing in this country.

THE COMMISSIONER: What do you include in manufacturing?

MR. WEGENAST: Well, I suppose everything that would be included under that term as used in the popular sense.

THE COMMISSIONER: Is a man constructing a sewer a manufacturer?

MR. WEGENAST: No, and of course we do not include, to any extent at all events, manufacturers whose scope is merely local, such as sash and door factories, and local brick yards, and industries of a like nature; but of those who are eligible for membership in the Association we include somewhere in the neighbourhood of 80 or 90 per cent. I think the percentage numerically would be about 75, but on the basis of the number of employees and the amount of capital employed it would be nearly 90 per cent. The Association presents an aggregate pay-roll

of in the neighborhood of $250,000,000 annually, and of that about $150,000,000 is in the Province of Ontario.

THE COMMISSIONER: Would that be calculated to shrink if the Washington law were applied?

MR. WEGENAST: I do not exactly see the point, your Lordship?

THE COMMISSIONER: If you had to pay on the amount would you give us a much less view of what your pay-roll was?

MR. WEGENAST: I think possibly the proportions might suffer to the prejudice of the Province of Ontario in that event. I mean to say that the matter is one of very serious import to the manufacturers of Ontario, and that we have given the matter consideration corresponding to its importance. We view the matter, not only from the standpoint of the employers of the Province of Ontario, but from the standpoint of the influence of whatever legislation is adopted upon the other Provinces. So far as the desirability of a change in the law is concerned I do not know that there would be anything gained by my taking up the time of the Commissioner in supporting what has already been said on behalf of the labour interests. We agree entirely with them when they say a change is necessary. Without going into that any further, I may say that so far as we are concerned the discussion assumes the form rather of a discussion of means than a discussion of the desirability of some compensation system. When we come to outline our views and propositions I have very little doubt that they will be considered as somewhat advanced, and I have very little doubt that there may be objections on the part of manufacturers, and possibly of members of our Association, to the breadth of our propositions, but they have been the subject of the most careful consideration by a very strong committee of prominent business men. They have been, also, unanimously approved by the executive council of the Association, a body consisting of several hundreds of the most prominent business men of Canada, and they represent the results of very careful study of the different phases of the problem.

We would regard it as most unfortunate if at this stage in the history of the Province legislation were adopted which did not represent the accumulated experience of other jurisdictions, as well as the wisdom and ingenuity of our own Province, and in view of the fact that the Province of Ontario has been a pioneer in many excellent types of legislation which have afterwards been adopted by the other Provinces, we have made this the occasion of the most careful consideration of the whole subject from a national, rather than a provincial, standpoint.

It means to our Association an increase in the annual cost of between $4,000,000 and $6,000,000 to adopt almost any form of modern Compensation Act, and from a study of the different systems we find that it will make a difference of several million dollars in the efficiency of the administration of compensation, whether a certain type of system is adopted in preference to other types or systems.

THE COMMISSIONER: If your figures of $4,000,000 to $6,000,000 are right is the Washington proposition not an absurd one? What percentage would that be on your wage-roll?

MR. WEGENAST: The wage-roll represented by the Province of Ontario? I am speaking now simply from the provincial standpoint.

THE COMMISSIONER: So I understand, but if you have $250,000,000 of wages and from $4,000,000 to $6,000,000 to be paid out in compensation, that is one-sixtieth of your whole wage-bill. Is there not some mistake about that?

MR. WEGENAST: No, I was speaking now only on the basis of the $150,000,000, not the $250,000,000. It is on the basis of $150,000,000, taking the percentage

as an average on the rates now quoted and charged by liability companies.

THE COMMISSIONER: What is the average rate?

MR. WEGENAST: I propose to discuss that at a later stage, but I may as well now refer to the figures in the brief.

THE COMMISSIONER: I only wanted it roughly now, not to go into the detail of it.

MR. WEGENAST: Between two and three per cent., or possibly higher. The lowest rate under the Washington Act is two and a half per cent. I think, and the highest rate is ten per cent., which is, of course, very high. Under the Washington Act I think a rough guess would place the average rate at three and a half to four per cent. I am assuming a somewhat lower rate because I do not think anybody seriously contemplates such an elaborate scale of benefits as that provided by the Washington Act. I have figured it out on what I would consider a fair average basis.

THE COMMISSIONER: That does not produce on $150,000,000 anything like two and a half per cent., does it?

MR. WEGENAST: Two per cent. would give $3,000,000 on $150,000,000.

THE COMMISSIONER: Yes.

MR. WEGENAST: I am not at all at this stage attempting to calculate the figures accurately. I am merely saying that for the purpose of illustration, and what I was referring to was that certain forms of compensation acts show results in which a large proportion of waste appears.

THE COMMISSIONER: May I ask you are there any statistics of the amounts paid out under our law?

MR. WEGENAST: I have not found any, your Lordship.

THE COMMISSIONER: Because these figures seem to me to be startling. I did not believe there were as many hundred thousands of dollars as this, or anything like it, paid out.

MR. WEGENAST: I think probably not, but I didn't think it was necessary to go into that because I have calculated everything on the assumption that there would, of course, be an act of much larger scope than anything we have at present. I do not imagine there is anything like that amount paid out, and I merely wished to make that remark to emphasize the importance of the matter to us, and to give point to the proposal that we have to make, particularly in view of the feature which I have just pointed out, that under some systems a very large proportion of the money that is paid out by way of insurance premiums, by employers, is wasted in the course of being transferred to the workmen.

THE COMMISSIONER: Rather is it not being kept away from them?

MR. WEGENAST: I am speaking of the systems of compensation. I am not speaking of our own system, because I quite appreciate that it cannot be considered a system of workmen's compensation at all. I do not know who happens to be responsible for the name which is appended to the present act on our statute books, and it may not perhaps be amiss to say that it is not a Workmen's Compensation Act, but an Employers' Liability Act. I may say the British Act in its present form is not a Workmen's Compensation Act, but an Employers' Liability Act, in the modern sense of the term.

We have considered rather carefully a good many of the details of our proposals, and are prepared at the proper time to discuss them, but the brief which I am presenting, and the statement which I desire to make, are confined almost solely to general principles and any references to any act or proposed act are only by

way of illustration. If our proposals should appear drastic and should appear advanced, or should be called even socialistic, it must be remembered that they are supported, as I have said, by the opinion of the solid business community of this Province, and in fact of Canada. They are also supported by the unanimous official opinion of the manufacturing bodies of the United States.

I would like to refer just for a moment to the work of Messrs. Schwedtman and Emery, who were commissioned by the National Manufacturers' Association of the United States to investigate the systems of Europe, with a view to formulating a policy for that body on the subject of workmen's compensation. These gentlemen spent four months in Europe, and the Association spent on the whole investigation some $20,000. I was in New York at the meeting of the National Association when the report of these gentlemen was brought in. The report was received with feelings not far short of amazement. Up to the time that the National Association took the matter up the writings upon the subject had been very largely from the labour standpoint, or from the academic standpoint, and it was nothing short of startling to the manufacturers to find that their commissioners, one of whom was himself a manufacturer and a practical engineer, and the other an attorney, supported by the unanimous vote of the committee, bore out almost in its entirety, or in their entirety, the opinions which had been formulated in late years by the expert investigators on behalf of the labour interests and the academic bodies. There are one or two points in which their findings differ, but in the main they are in accord, as I have stated, with the opinions of those representing the labor interests and of those who have investigated the subject for the educational institutions of the United States; and I may say right here that our views upon the subject, and the proposals that we will make are not less advanced, but are, if anything, more advanced than those made in the statement presented by the repesentatives of the Trades and Labour Congress of Canada.

Without saying anything more by way of preliminary remarks I would like to refer to the first portion of the brief which I have placed in your Lordship's hands. The first few pages of the brief contain an outline of our proposition, which is further elaborated in the latter part of the brief. For purposes of outline it is necessary to refer only to the first half dozen pages. I have already referred to and placed on record the resolution passed at our annual meeting under which the committee in charge of this matter have acted, and I would like to point out that the matter was approached there, and is being approached by our Association, from the standpoint first and foremost of conservation.

A good deal is being said in late years about the conservation of our natural resources, and I need not enforce by elaborate argument the obvious inference that it is equally important, and in fact more important, that every effort should be made even in a young country like ours to conserve the industrial efficiency of our workmen. The first paragraph of the resolution refers to that feature, and that is the feature we have kept most prominently in view in considering the question. "Resolved that conservation of industrial efficiency by organized and systematic means for the protection of the life and health of wage-workers, and compensation for the results of industrial accidents is a matter which demands the careful attention of this Association."

In the statement of principles which appears on page "4," I think, of the brief, we have placed first of all the clauses emphasizing the importance of this feature of conservation of industrial efficiency by organized and systematic effort in the direction of the prevention of accidents. The first principle reads as follows:

"For reasons both humanitarian and economic the prevention of accidents should be a prime consideration in any scheme of workmen's compensation, and no systems can be satisfactory which will not tend to produce the maximum of effort and result in conserving the life, health, and industrial efficiency of the workman."

I do not propose at this stage to comment further upon these principles than simply to give some brief explanation where necessary as to the meaning. I find that the meaning of our committee, and the meaning which I had attached to the second principle, has been misapprehended by some of the representatives of the labour interests who have read it, and the only comment which I desire to make upon it is by way of enforcing this view, that the second principle is intended to enunciate in its broadest form the principle of professional risk. That is the theory that the cost of industrial accidents, the cost of compensating workmen for the results of industrial accidents, should be thrown upon the industry and included in the price of the product and charged to the consumer. It is not intended to embody anything in the shape of the doctrine of contributory negligence, and if such a view is gathered from that statement then the statement has been wrongly worded; it reads as follows:

"Relief should be provided in every case of injury arising out of industrial accident. Such relief should not be contingent upon proof of fault on the part of the employer but gross carelessness, drunkenness or intentional wrong on the part of the workmen should be penalized in some way."

THE COMMISSIONER: Do I understand these are elaborated later on?

MR. WEGENAST: Yes.

THE COMMISSIONER: And an explanation of what you mean by "penalized" given?

MR. WEGENAST: Not very much of an explanation of that, your Lordship. I am personally very much in doubt as to what form the penalty should take, and there is the obvious difficulty always arising that any penalty which is inflicted falls to a very large extent on the innocent dependants. Still there is the vital consideration that there must be some way of bringing home to the workman the result of misconduct. I am not wedded at all to any form of words. I know there has been a good deal of criticism of the words "gross carelessness," and I am quite willing to have that principle read in any other form which embodies the general idea that misconduct on the part of the workman must be brought home to him in some way.

The third principle is: "The system of relief should be adapted to cover wage-workers in every industry or calling involving any occupational risk and should not be confined to such industries as rail-roading, manufacturing, building, etc."

THE COMMISSIONER: Why didn't you put what you meant, that it should extend to farmers and domestic servants?

MR. WEGENAST: We did not mean that, your Lordship. We mean exactly what is stated there. I do not know that there is any reason for, and there may be many reasons against, our exhibiting undue solicitude for the welfare of the farming community or the class of domestic servants. We are concerned primarily with the interests of our own members, and with the establishment of a scheme which shall represent a permanent and satisfactory solution of this problem. At the same time we realize that any scheme which is adopted will in all probability be ultimately extended to cover all classes of wage-workers.

THE COMMISSIONER: Now, is there any design in this? Are you proposing

a Bill that will be defeated because it is loaded down with clauses that will be unpopular with the farming community and the general public?

MR. WEGENAST: No. Perhaps I may take this opportunity to express as strongly as I may, and as strongly as I can, this feature of the attitude of the Manufacturers' Association. We have approached the subject—and I am speaking for the Committee in charge of this matter and for myself—with a view not to gaining any narrow advantage for ourselves, although I do not want to claim for us any superiority over the ordinary run of humankind. We have endeavoured to approach this subject from the broad standpoint of the desirability of a satisfactory solution, a solution satisfactory to the employers, to the employees and to the community at large. We think we have everything to gain by such a solution and by permanent conditions, and if there is any particular advantage to be gained by our Association, and the employing interests generally throughout the country, it will consist rather in the establishment of a permanently satisfactory condition. We have more to lose by unstable and unsatisfactory economic conditions than we have by the imposition of the burden of compensating the workmen who are injured. I want to say this about all these principles, that they are drawn and have been adopted with that in view. We do not want to meddle with the affairs of the farmer any more than to consider that in a general scheme which is adopted it must be taken into account that this scheme will in all probability be ultimately extended to farm labourers and to domestic servants, and it should be such a scheme as is fairly adapted for extension to these classes.

The fourth principle is: "The relief should be as far as practicable by way of substitution for the wages of which the injured workman and his dependants are deprived by the injury. It should as a rule be periodical and not in a lump sum."

The fifth principle is: "The relief should be certain. It should not depend upon the continued solvency of the employer in whose service the injury was sustained."

THE COMMISSIONER: Do you suggest in regard to that in your brief how that is to be secured?

MR. WEGENAST: Yes, we have gone into that quite thoroughly.

The sixth principle is: "The amount of compensation should be definite and ascertainable both to the workman and the employer. The system should entirely displace the present method of compensation by an action for damages, and the employer should not be subjected to any further or other liability except in cases of gross carelessness or intentional wrong on the part of the employer."

THE COMMISSIONER: I see you eliminate drunkenness there.

MR. WEGENAST: That has been pointed out to me. I am quite ready to have it included.

THE COMMISSIONER: It is an invidious distinction, I suppose; that is all.

MR. WEGENAST: I may remark that it is intended for the statement to embody the broad principle that while a scheme of compensation would take the place of the present remedies at law, for reasons which I need not go into here, there should be some way of bringing home to the individual employer as well as the individual employee the responsibility of misconduct.

THE COMMISSIONER: There is a great deal of trouble involved in that. That will raise again all these questions: You say "The employer." Take a joint stock company. Does that include the vice-principal, as they call him, the superintendent, or just the man who owns the concern?

MR. WEGENAST: I am not speaking there, your Lordship, of the cases which are covered by the general term employed in our present law.

THE COMMISSIONER: Do not misunderstand me. You are proposing to do away entirely with the common law liability?

MR. WEGENAST: Yes.

THE COMMISSIONER: Except in the case of gross carelessness or intentional wrong on the part of the employer.

MR. WEGENAST: No, that is not the intention. The intention of that principle or statement is that there should be some way of penalizing the employer, not necessarily by making him subject to a common law action, because on the whole I think the bulk of opinion is against the retention of that remedy, but possibly, as under the Washington Act, by the imposition of a fine or a penalty which will go to the general insurance fund.

THE COMMISSIONER: It would still leave that difficulty that I have suggested. Would it be misconduct on the part of the owner of the business, which in a great many cases would be a joint stock company, or would it be the men who are in direct or immediate charge of the operation?

MR. WEGENAST: I have not considered that phase of it particularly, and our committee did not consider it, but I should think, speaking offhand, there is no reason why misconduct on the part of the representative of a company, if he is the representative of the company, in its capacity as employer, should not be penalized—if he happens to be the representative of an incorporated company. For instance, supposing it is found an incorporated company, acting as employer, omits to provide proper safeguards, or omits a statutory duty of any other nature, I do not see why the company should not be penalized as well as an individual; and speaking for the manufacturers, I think I can state that we certainly would not feel like drawing any distinction.

THE COMMISSIONER: The Washington Act is considerably limited. "If any workman shall be injured because of the absence of any safeguard or protection required to be provided or maintained by or pursuant to any law or ordinance or any departmental regulation under a Statute . . . . the employer shall within ten days after demand therefor pay into the accident fund, in addition to the sum required by section '4' to be paid," and then the sums are stated. Yours would be broader than that, apparently.

MR. WEGENAST: Well, I am not wedded to any form of words. I am not thinking of the cases that come under the ordinary term, "negligence." I do not know but that the Washington Act may be too narrow. I wouldn't like to say that. We have been considering the matter simply from the broad general standpoint, and it is a matter of general expediency how far these different clauses should go when it comes to the drafting of an act. The details of the working, and the details of the scope of such penalizing sections are, I presume, a matter for subsequent consideration.

The seventh principle is: "The funds for relief should be provided by joint contributions from employers, workmen and the State. Employers and workmen should pay in such proportion as represent the number of accidents occurring by reason of the hazard of the industry and the fault of the employer on the one hand and the fault of the workman on the other."

THE COMMISSIONER: Is that not exhaustive of the whole range of accidents?

MR. WEGENAST: Yes.

THE COMMISSIONER: Then what would you leave for the State?

MR. WEGENAST: The State should bear, we submit, the cost of administering the system, and the arguments in favour of that I propose to go into later.

THE COMMISSIONER: That is elaborated later on?

MR. WEGENAST: Yes, but I point out that the State now pays for the expense of litigation to a considerable extent, and that the general community would greatly benefit by having the dependants of injured workmen, and the workmen themselves, taken care of by this method, rather than being thrown upon the community at large, either upon the Poor-Law system or upon public charity.

The eighth principle is: "The system of relief should be such as to secure in its administration a maximum of efficiency and economy, and as large a proportion as possible of the money contributed should be actually paid out in compensation."

That is, of course, so obvious that it needs no explanation and almost no support, but at the same time is a very vital element for consideration.

The ninth principle is: "The procedure for the adjustment of claims should be as far as possible dissociated from the regular courts of law. It should be simple, and calculated to involve in its operation a minimum of friction between employer and employee."

THE COMMISSIONER: Do you want the Juvenile Court brought in?

MR. WEGENAST: Well, I would have to look into that.

THE COMMISSIONER: Of course, I am only joking.

MR. WEGENAST: The idea is a body should be appointed for the purpose of adjudicating claims, with an appeal only on questions of law—a body similar in its scope or intention to the Railway Board.

Then the tenth principle is: "The system of compensation should be directly associated with a system of inspection with a view to the prevention of accidents and a system of prompt and expert medical attendance to mitigate the effect of the injuries."

That is in a sense included in the first clause, but is repeated here for the purpose of discussing some other aspects.

Then the eleventh principle is: "The system should be such as to secure as liberal a measure of relief as possible without undue strain upon industry."

The twelfth is: "The system should be such as to afford some promise of permanency."

THE COMMISSIONER: There is nothing can be permanent in this world. If you had said "a promise of some degree of permanency" it might have been all right.

MR. WEGENAST: I think probably I should have put it in that way. I am glad to have your Lordship's suggestion.

The next portion is a brief analysis of the systems in the different countries of the world, which I may as well read.

"Practically all workmen's compensation legislation is an effort to embody in some form and in some degree the second of the principles above laid down, namely, that a wage-worker should receive compensation or relief in case of injury occurring in the course of his employment regardless of questions of fault on the part of the workman. This has been called the principle of 'professional risk.' It is based upon the theory that the cost of human wear and tear should be thrown largely, if not wholly, upon the industry and included in the price charged to the consumer for the product of the industry. To what extent this theory is equitable and economically sound, and to what extent it conflicts with the legal doctrine

that no man should be responsible for something not his fault need not be discussed here. The theory is the basis of all workmen's compensation legislation."

"The different compensation systems of the world exhibit three distinct methods of applying the theory of professional risk. These methods may be respectively termed the individual liability method, the collective liability method and the state liability or state insurance method. Every system in the world can be classified under one or other of these heads."

MR. BANCROFT: May I ask a question? The statement here says, "It is based upon the theory that the cost of human wear and tear should be thrown largely, if not wholly, upon the industry and included in the price charged to the consumer for the product of the industry." Would it be right? If the workmen have got to contribute, according to their proposal, and the ultimate cost is upon the consumer, they are making the workmen pay at both ends.

THE COMMISSIONER: So does the manufacturer. Both pay at both ends.

MR. WEGENAST: And the employer, of course, pays it by way of wages. The question of the power of the workman to pay, and the question of his paying at all, is largely involved in the question of the amount of his wages and his getting wages at all.

THE COMMISSIONER: Let me ask you a question there. It is stated in some quarters that the cost involved in such a law as is suggested cannot in certain industries be put upon the consumer, that the price is a world's price, and not subject to control by the industry in a particular country.

MR. WEGENAST: I think that is correct, your Lordship, and it is one of the difficulties that we have to reckon with, but the difficulty does not go deeply enough to abrogate the general principle. There is no doubt at all that the manufacturers of this Province will be prejudiced in competition with jurisdictions where no compensation system exists, corresponding to ours.

THE COMMISSIONER: I was speaking rather of a different class. I was speaking of the producers of mineral wealth or producers from the forest or the farm? How can they regulate prices? How can they add to their price?

MR. WEGENAST: Well, the distinction is more a distinction of degree than of kind, because after all the manufacturer is a producer in very much the same sense as the farmer.

THE COMMISSIONER: He can add it on to his price, within certain limits?

MR. WEGENAST: Of course.

THE COMMISSIONER: Take the people who are producing silver. They cannot change the price of silver, and it might work out to be unjust in their case.

MR. WEGENAST: And the same thing is true of wheat, of course.

THE COMMISSIONER: And probably so of the product of the forest.

MR. WEGENAST: And certainly so of gold, the standard of exchange. In those cases it creates a disadvantage, but there can be no doubt the whole idea of workmen's compensation is founded upon that general principle that the employer as the *entrepreneur,* which is the French term—and the translated term has, however, another shade of meaning—the undertaker of the industry is in a position to place the charge of human wear and tear against the product, and get it out of the consumer.

THE COMMISSIONER: Apparently your view is that it is anomalous that the manufacturer bears the burden of any wear and tear of his machinery ordinarily, but not the burden of the wear and tear of his human machinery.

MR. WEGENAST: We do not quarrel with the theory at all. I do not know

that it is necessary for my purposes at present to affirm or deny. All I am saying is that that is the general theory upon which all workmen's compensation legislation is based, and probably later on I shall be able to show that it is regarded in that way by all the writers and authorities on the subject.

Then I continue: "Under an individual liability system the obligation to compensate workmen is thrown upon the individual employer as an element of the relationship of employer and employee. The law includes a term in every contract of employment by which the employer assumes an obligation more or less extensive to indemnify the workmen for injuries received in the course of, or in connection with, the employment. The injured employee looks for his relief to his employer, who thus becomes an individual insurer of the workman against accidents. The principle of individual liability is illustrated in the English Workmen's Compensation Act, and in the acts in force in some of the Provinces of Canada. Under these acts employers are required, regardless of questions of fault, to compensate their workmen for injuries arising out of, or in the course of, the employment. Employers are, of course, encouraged and permitted to insure themselves against the liability under the act by some form of insurance, but the initial liability rests upon the individual employer, and the insurance effected is uniformly for the purpose of protecting the employer against this liability and not for the purpose of insuring the workman against accidents."

That is a distinction which I wish to emphasize particularly later on, the distinction between employers' liability insurance and real accident insurance. In a system of employers' liability insurance it is the employer who is insured. In accident insurance and in a real system of workmen's compensation it is the workman who is insured.

THE COMMISSIONER: There would be no difficulty under the present system if the employer insured his workmen against the accident within the scope of the Workmen's Compensation Act?

MR. WEGENAST: But he does not do it, and as soon as you compel him to do it you have a compensation system.

Then I continue: *Collective liability*:

"Under this method the liability to compensate the workman is thrown upon employers, collectively in groups, according to the hazard of the industry. Employers are encouraged or compelled to combine in associations for the purpose of insuring their workmen against accidents and providing the funds for the purpose. The injured workman looks for his compensation, not to the individual employer, but to the association or the fund. The principle of collective liability is illustrated in the German system under which employers are grouped by industries under State compulsion and supervision, and are required to provide funds for compensation or relief for injuries arising in their respective groups. The collective liability system has been adopted by a majority of the countries of Europe and some of the States of the American Union, but the German system being the oldest and the most scientifically developed is usually cited as the type.

State Insurance.—Under this method the State itself assumes the obligation to pay compensation, the cost being levied upon employers or employers and workmen, through the agency of a State Insurance Department. The workman looks for his compensation directly to the State Department and the compensation is provided out of a fund levied in the form of insurance premiums upon the payroll of industries. This method is illustrated in the acts recently adopted by the States of Washington and Ohio."

THE COMMISSIONER: Is that so in the case of Ohio? It is very different from the Washington Act.

MR. WEGENAST: The difference arises out of a different view of the constitutional problem. It is in the form of being elective, but is in effect compulsive. The elective feature is intended to get around the difficulty which the American States all face, that they are not allowed by the Constitution to deprive any man of property or liberty (I forget the exact term) without due process of law, and by putting the matter in the form of an election, and making it as difficult to elect one thing as possible and as easy to elect the other as possible, they escape the constitutional difficulty. It has been pointed out to me, however, by Mr. Preston, who drafted the Washington Act, that the Act of the State of Washington, and perhaps the same remark would apply to the State of Ohio, that it is rather a collective liability system under State administration. Mr. Preston points out that while the State does administer the compensation system through the State Department it does not guarantee anything. It does not guarantee solvency, and is in fact prevented by the Constitution of the State from doing so. Mr. Preston stated to me that his original idea was to have the State guarantee the compensation, but on account of the constitutional doubt he eliminated that feature.

THE COMMISSIONER: Does he not whip the devil round the stump? Does the State not contribute so much?

THE COMMISSIONER: Simply towards the management of the fund. There is a fund set apart. It is $150,000 to start the Department, but the system is really a collective system, and he points out there is nothing further to guarantee the solvency than the size of the classes created by this act.

THE COMMISSIONER: They are not divided into different classes in one sense; they pay in different proportions.

MR. WEGENAST: Yes, they pay different rates.

THE COMMISSIONER: I suppose that would be a difficulty. Why did they not provide as they do in mutual insurance companies, that if the fund was insufficient to pay the claims an assessment should be made upon all the persons according to these rates?

MR. WEGENAST: There is a provision of that kind. It is not put in that specific way, but there is a provision under which that could be done.

THE COMMISSIONER: I suppose they had to touch that gingerly because of the constitutional question.

MR. WEGENAST: Now, as to the advantages and disadvantages of the three systems, the individual liability, the collective liability and State liability, and this is only of course a rough outline which I have extended in the brief: "The method of individual liability has been pronounced with singular unanimity by those who have investigated the operation of the different systems as a failure. It involves the violation of almost all the twelve principles above laid down as representing the chief elements of a satisfactory compensation system. The individual liability systems have not tended to any appreciable degree to reduce the number of industrial accidents or to conserve the life, health and efficiency of the workman."

I would rather that sentence had not so much the appearance of an attempt at rhetorical effect that it might better emphasize the fact intended to be brought out, of which there is not the slightest question. "They operate with peculiar hardship upon small employers. and older and partially disabled workmen. They cannot be well operated so as to secure periodical payments as opposed to lump sum payments of compensation."

THE COMMISSIONER: I don't quite understand what that means. "They

operate with peculiar hardship upon small employers, and older and partially disabled workmen."

MR. WEGENAST: That was referred to by Mr. Stewart here, and is illustrated by the departmental reports.

THE COMMISSIONER: Under the system you propose would it not be to the interests of the employer not to have old men who are more subject to accidents?

MR. WEGENAST: No; it would be to his interest, but he would not be allowed to discriminate. The humanitarian element would stand in the way of any rule being made discriminating against the older and disabled workmen.

THE COMMISSIONER: You cannot compel a man to take John Smith, 60 years of age, into his employment.

MR. WEGENAST: You cannot compel him, but he would be under no direct personal disadvantage by engaging him.

THE COMMISSIONER: Would you not have a wholesale barrier set up by all the employers?

MR. WEGENAST: No, the employers could not justify themselves in face of the general community by making a rule of that kind. An employee can justify himself in the eyes of the general community by making the strictest kind of regulations with respect to safeguards and rules for the prevention of accidents.

THE COMMISSIONER: Some of them do not care very much about justifying themselves to anybody.

MR. WEGENAST: That may be, but that is the point your Lordship is raising, that they would perhaps discriminate against the older workmen; but they would not be justified. Individually it costs them so little that there is no particular advantage concerned. They would have to be justified in the eyes of the general community in making rules discriminating against the employment of older and incapacitated workmen. I may go into that a little more in detail later.

"They cannot be well operated so as to secure periodical payments as opposed to lump sum payments of compensation." The statistics of the investigating committees of the British House of Commons bore that out fully, and all the text-book writers upon the subject support it.

THE COMMISSIONER: Apparently you propose a cast-iron provision, that there shall be no lump payments. I can imagine there might be many cases in which it would be most desirable that there should be.

MR. WEGENAST: I have stated it almost in those words. I have said as a general rule it should not be in a lump sum, but there are many cases where it would doubtless be desirable. I will read the paragraph dealing with that.

"In some cases, as for example where an artificial limb or other device is required facilities for a lump sum payment should be left open; and these facilities might be extended to other cases where the lump sum payment is found in the exercise of the wise discretion of some supervising body, to afford superior advantages to the compensation plan, but as a general rule a pension on the basis of a percentage of former wages is found most satisfactory."

That is supported by voluminous evidence both in England and other countries, and by the text writers.

Then I go on: "They do not afford any assurance that the compensation payments will be made, or continue to be made, there being no guarantee of solvency on the part of those charged with payment. They have been proven to be wasteful in the extreme, a large percentage of the money paid out in contributions by way of employers' liability insurance premiums being taken up by commissions, expenses of litigation, profits, etc. The workman is obliged to resort to legal or

quasi-legal process to enforce his claim against the employer. The settlement of each claim involves a direct contest between workman and employer, the latter being supported by the employers' liability insurance companies with its superior facilities for contesting claims."

THE COMMISSIONER: Would that not be a great deal mitigated if the liability of the employer were extended, as you seem to agree with those representing the labour interests that they should be extended? There would not be the same occasion for dispute.

MR. WEGENAST: That is true. It does eliminate the expense of litigation to some extent perhaps by simply stripping the employer of all his defences. He simply has to throw up his hands and say I can't do anything. Still the statistics in England show that there are still a considerable number of points upon which litigation does arise, and in any event there is the inevitable contest over the amount of the claims, and other features of compensation, the contest being directly between the employer and the employee, with the employer supported by the liability insurance company.

THE COMMISSIONER: If you had a supplementary British Act, requiring compulsory insurance by employers and giving the workman the right, when he was injured, to subrogate to the rights of the employer against the company, would that not protect him to a considerable extent?

MR. WEGENAST: Well, I would not like to speak of all the features of that offhand.

THE COMMISSIONER: Have you considered that aspect of it?

MR. WEGENAST: No, but I would be prepared to say this offhand, that it would simply add another factor in the circuity of liability which must exist under any individual liability system, and would raise more litigation. I would be prepared to say that offhand. I have not considered all the bearings of the suggestion.

THE COMMISSIONER: What is involved in my question is this: A man meets with an accident; the employer is insured. Now, the British Act provides in the case of the insolvency of the employer there is a preferred claim. Why shouldn't the employee when injured, if this system were adopted, have a right to say to the insurance company, I have a lien upon this fund, do not pay it to the employer, and when he has established his claim get it instead of the employer getting it from the insurance company? However, I do not ask you to express any opinion upon that offhand.

MR. WEGENAST: Then I continue: "The individual liability systems represent the greatest and most direct strain upon the industries." The meaning of that is not apparent on the face of it, but I will go into that later. "They are admitted by nearly all observers to represent merely a stage in the development of a satisfactory compensation system and involve in the meantime unsatisfactory relations between employers and workmen, and unsatisfactory economic conditions to the community at large.

"The collective liability method as applied in Germany and other countries of Europe, as well as some of the American States, is generally regarded as a success in its practical working out. The systems of these jurisdictions are found to embody in a large measure the elements above outlined as constituting a satisfactory compensation system. The type system, that of Germany, is the outstanding example of a successful solution of the problem; and the criticisms upon it are attributable solely to defects in the details and administration of the system."

THE COMMISSIONER: Does that mean you are expressing the view that this German system might be transplanted here and survive, under our conditions?

MR. WEGENAST: Not in its present form in Germany, but the same principle might be adopted to the conditions here.

THE COMMISSIONER: We have no such thing as these trade organizations as an instrument of working it out.

MR. WEGENAST: At a later stage I propose to indicate the opinion of the committee, and what I believe is the general opinion of the business employing interests of the Province, that there is a way of working out a system on the German principles. The Washington Act in one sense is an embodiment of the German principles, and the practicability of adopting it has been a matter of very grave consideration amongst the members of our Association. We sent out circulars to all the members, and the answers to these circulars showed a remarkable body of opinion in favour of something in the nature of the German system, the Washington system, or at any rate of the system of government administration.

"The State insurance system as applied in the State of Washington and other States, as well as a number of other European countries, has the approval of a large majority of investigators and writers upon the subject. Constitutional and other practical difficulties have interfered with the introduction of such a system in many jurisdictions where it was otherwise regarded as desirable. The experience of those jurisdictions which have adopted the system has called forth enthusiastic commendation from employers and workmen as well as the general public, and has given every reason to believe that such a system affords a satisfactory solution of the problem."

I propose to add to your Lordship's brief copies of letters and expressions of opinion from various interests in the State of Washington, and in the adjacent Province of British Columbia, upon the working of the Washington Act.

THE COMMISSIONER: Is it not somewhat early to prophesy in that regard?

MR. WEGENAST: It is somewhat early, but the remarkable unanimity of employers and employees does indicate something, whatever it may be. Experience will, no doubt, expose defects and disadvantages that do not now appear.

THE COMMISSIONER: Have you learned how the payments for the initial contributions were made?

MR. WEGENAST: I had a letter just the other day from Mr. Higday, the active commissioner, and it might not be out of place to refer to an incident that is rather interesting in this connection. I had some correspondence with the chairman of the Michigan commission, which is reporting now in favour of an act similar to the Act of Massachusetts, which is by the way as close a replica of the German system as is thought possible in that State. Mr. Smith, the Chairman of the Michigan Commission, called my attention to the fact that one of their commissioners had gone to the State of Washington and had found there what he called a lamentable state of affairs, and referred particularly to a large accident which had happened there just a few days before I was in Seattle, in some powder works, in which there were claims involving many thousands of dollars, and referred to the fact that there was only $270 in the treasury. I quoted Mr. Smith's comment in a letter to Mr. Higday, the Commissioner of the State of Washington, and he immediately sent a letter to the Governor of the State of Michigan repudiating the statement and giving the real facts. I have a copy of it here. I do not know that it is prudent now to put this in, but I thought I might mention it.

"The greatest difficulty in the way of an introduction of an act like that of the State of Washington is the immediate additional expense to the employer represented by a probable rise of from 100 to 1,000 per cent. over the cost under existing conditions."

I have already referred to the probable rise, and Mr. Neely stated to us the other night that it was not improbable that the rate would be quadrupled.

"Most large employers cover their risk under the present laws by employers liability insurance. While the rates for this insurance are very high relatively to the benefits conferred by it upon injured employees the introduction of a system like that of Washington would involve a considerable disturbance of economic conditions to the prejudice of both employers and workmen. The same result would of course follow the introduction of an individual liability system such as that of England, in which latter case the expense of conferring corresponding benefits would be much larger owing to the large percentage of waste.

That is, if we wanted to introduce an act along the lines of the British Act, with benefits corresponding to the Washington Act, the rates would be practically twice as high.

"There is a plan under which a collective or State insurance system could be established at an immediate annual cost not greater than, and in fact in many industries considerably less than, that of the present liability insurance rates. This plan may be called the current cost plan." The emphasis there is on the word "immediate." "Under it instead of capitalizing the periodical payments due to the injured workman or his dependants and setting aside at the time of the accident a lump sum to provide for all future payments, only the current cost of meeting the annual payments would be assessed each year with a small margin for an emergency reserve fund. The annual assessment should increase as the number of dependants increased, and the annual rate would only reach its maximum after a period of twenty-five or thirty years." This was the actuarial plan adopted in Germany. It represents a minimum strain upon present industry and does not involve the shock to the economic system which would be incidental to the adoption of an extensive scheme of immediate capitalization."

That is a feature that we have considered very seriously.

THE COMMISSIONER: That would involve this, no doubt, the man who would drop out of business would escape, and the burden would fall upon those who succeeded him.

MR. WEGENAST: Yes.

THE COMMISSIONER: That, of course, you recognize.

MR. WEGENAST: Yes, I recognize that.

THE COMMISSIONER: Was that not an objection?

MR. WEGENAST: It was thought a slight objection, but it does not weigh at all against the advantages of the system. I am prepared to meet some initial scepticism on the advantages of that system.

THE COMMISSIONER: What you are practically doing is to assimilate it to a mutual life insurance system?

MR. WEGENAST: To an assessment life insurance, but the objections that strike one at first are not the objections which exist in the assessment life plan. In the first place the rate would never rise above the normal rate. If the rate reaches the normal figure at the end of thirty years it ought never to rise above it, because the rate then of those coming on the fund will be off-set by those dying off, and the normal rate will then go on just as if the normal rate had started from the beginning. There is one feature of the system which is more important

even than the most economic feature, and that is brought out by Mr. Dawson, the New York actuary, who I hope to have here before your Lordship on Tuesday evening next. In his brief and in his address to the Federal Commission of the United States he showed by statistics that are of course incontrovertible—

THE COMMISSIONER: All statistics are, no matter where they come from.

MR. WEGENAST: That is a characteristic statistics have. They are incontrovertible to me at all events, that the result of the current cost plan of insurance was an immense impetus to activity in the direction of accident prevention. He showed that in a number of industries in Germany, in fact in most industries, the normal rate had been reached after a period of about fifteen years, instead of taking as it should according to the actuarial tables thirty years or more, and the reason was this, the rapid rise in the rates for the first few years emphasized and kept constantly rubbing it in, as it were, upon the employer, the necessity of accident prevention. It is quite easy to see when one comes to think of it how that would be so in the number of industries spoken of by Mr. Dawson, and the same remark applied I believe universally in Germany, that the normal compensation rate was reached in twelve or fifteen years. I would like to refer to a passage from Mr. Dawson's remarks at this stage. He says, "In the course of my work for the Bureau of Labour last year"—and he is one of the active members of the United States Bureau of Labour—"I went abroad to ascertain what workmen's compensation is costing in the various countries—that is, the rates of premium which are paid in the various industries—information which has never been collected before, in many cases not even in their own countries. I also employed one of the very best men in the actuarial profession in Germany on this subject to make this investigation for me as regards Germany. I think I am the only person, outside of the Bureau of Labour, because we have not published it, that possesses knowledge of what those durations have proved to be in Germany.

Then he goes on to speak of the particular industries at page 76. He states, "They found it in Germany tremendously effectual, keeping the rate from increasing for fifteen years past, for a long time actually reducing it, notwithstanding the increasing burden because of previous years' accidents."

At the bottom of page 71 and on page 72 he says, "The German system is what I have described to you, the rational, common-sense system of collecting each year under a compulsory tax only that which is necessary to meet the requirements of the year with which to pay the incomes that must be paid that year on account of the accidents that happened that year or previous thereto, started in just that way, we would collect just enough the first year to pay the incomes required to be paid on account of the accidents of that year. The German system started at about 20 per cent. of its ultimate cost. According to the estimates of actuaries, it will take in the natural process of events, if there were no change at all in the danger of the industries—if they did not become more dangerous or less dangerous—it would take fifty years before it reached its absolutely full figure, and when it reached that absolutely full figure it would be the same average which the insurance company would want to charge from the beginning with the sole exception that you would not have taken into account the powerful influence in favour of prevention which I am about to describe."

Then the Chairman says: "Do you mean by that the full cost would be increased year by year for fifty years?"

"MR. DAWSON: I do; but practically it really reaches half its maximum in ten to fifteen years, and almost its maximum in twenty-five years: and if the industry had learned its lesson and reduced the hazard it may reach its maximum

in ten or fifteen years and after that actually decline. Thus in Germany steam railways paid the first year, 1886, thirty-nine one-hundredths of one per cent. on the pay-roll, the next year seventy-nine one-hundredths of one per cent., the third 1.25, the fourth 1.38, rising to 1.80 the eighth: then prevention began to affect it markedly and it declined in a few years, notwithstanding the burden because of accidents in previous years, to as low as 1.26, and shows no signs after twenty-four years of rising beyond about 1.80 per cent. which it reached in eight years."

Then he speaks of the beer bottling industry and the agricultural industry, and goes into the question at some length on pages 72 and 73.

THE COMMISSIONER: Why does he assume that is due to prevention? Is that not a plain assumption?

MR. WEGENAST: Well, I would think not, but I would prefer not to speak from assumption myself. Mr. Dawson will be here on Tuesday night, and I would be very glad to hear him go into that. It strikes me as generally reasonable that that would have an effect.

THE COMMISSIONER: It may be so, but why does he assume it? May there not be other causes?

MR. WEGENAST: He says he has statistics which have never been gathered before.

THE COMMISSIONER: That would be only to show the number of accidents.

MR. WEGENAST: He is speaking at large. His brief is in a subsequent part of the report and I will refer to it later.

Now, the last page of the sketch or outline gives the recommendation of our Association.

"We recommend the establishment of either a collective liability or a State insurance system. An individual liability system will not be acceptable to the manufacturing interests of the Province."

If there is any one sentence that is the crux of the whole brief that is the sentence.

"We are prepared to lend every assistance to the organizations of an independent collective system, but we believe that under all the circumstances the most economical and satisfactory plan for the Province of Ontario is a collective system under provincial administration and control."

I may say we considered long and seriously, and in fact the policy of the Association was, as expressed in the Annual Report of 1910, the project of forming a mutual insurance company amongst the members of the Manufacturers' Association along the lines of the Mutual Insurance Company now forming in the State of Massachusetts, and forming under the acts of some of the other States in the United States. The difficulties of that plan are apparent. The first difficulty, of course, would be to get the different employees to join, and there would be no way of compelling them to join the Mutual Association, and those who remained out would remain outside the benefits. I was rather startled to find that the representatives of the industries which have been most progressive in adopting preventive measures are quite willing to forego the advantage which their individual concern would derive from their superior preventive facilities for the sake of bringing into line their weaker competitors who, after all are competing with them in the general market. Thus, for instance, a prominent firm of manufacturers of agricultural implements in Hamilton are known not only throughout Canada but the United States for the excellence of their preventive facilities and the low rate at which they carry their compensation, and the representative of that concern was quite willing to pay the higher rate and to join in a system in which all other manu-

facturers of agricultural implements were included and pay the higher rate.

"We recommend the creation of an independent non-political provincial insurance department administered by a Board of three Commissioners. This Board should provide for the payment of all claims for compensation out of a fund to be raised by premiums levied upon the pay-roll of industries classified according to hazard."

THE COMMISSIONER: Is that not a little contradictory of one of your principles? That leaves out the workmen's contribution.

MR. WEGENAST: That is dealt with later.

THE COMMISSIONER: You by accident struck the truth? You provide for all claims out of a fund to be raised by premiums levied upon the pay-roll?

MR. WEGENAST: Yes, classified according to the hazard.

THE COMMISSIONER: Does that not contradict your other proposition?

MR. WEGENAST: No.

THE COMMISSIONER: There would be no room for the workmen's contribution, would there?

MR. WEGENAST: The Ohio Act makes provision for that. I do not see any contradiction. I am quite willing to go into that later.

"The Board should be vested with full jurisdiction to adjust all claims for compensation upon sworn reports of the different parties interested. It should have power to take evidence, to make independent investigations, and to re-hear and re-adjust, its decisions being final upon questions of fact and subject to appeal only in questions of law."

The sole object, of course, in that is to have the adjudication as prompt and inexpensive as possible. If it is necessary ot have further appellate courts in the interests of justice there would be no objection, but where the matter of adjustment is merely a matter of establishing a claim to a fund there should be no more difficulty in making it out than there is at present in adjusting a loss by fire. There is an occasional action in the courts, but usually the action is not over the adjustment of the claim but over legal questions arising out of the contract of insurance."

"The Board should also have power to enforce preventive regulations, and provision should be made for the advisory co-operation of representatives of different classes of industries in the framing of such regulations."

THE COMMISSIONER: I suppose that means employers and workmen.

MR. WEGENAST: That would depend perhaps upon the question of contribution.

THE COMMISSIONER: I should think they were pretty largely interested in advising as to preventive measures.

MR. WEGENAST: Quite so.

THE COMMISSIONER: Was that intended simply to apply to the employer?

MR. WEGENAST: Well, that, as I say, would depend to a considerable extent upon the question of contribution.

THE COMMISSIONER: Why should that make any difference? Why should a man not have a voice in recommending something to be done to safeguard him from accident?

MR. WEGENAST: That, of course, is entirely right, but take as an illustration the system of Germany, where the funds for the compensation are managed entirely by the employers' associations. It is only when it comes to the point of litigation that the representatives of the employees come in.

THE COMMISSIONER: I think you are misunderstanding me. This paragraph is dealing with the power of the Board to direct preventive measures being taken. I suppose it means for the prevention of accidents?

MR. WEGENAST: Yes.

THE COMMISSIONER: It says "provision should be made for advisory co-operation in the framing of the regulations." Now, why should the artisans not have a voice in that as well as the employer, whether he contributes or not?

MR. WEGENAST: It is a matter of practical working out. It is not so much a principle as the practical working out.

THE COMMISSIONER: It is only advisory.

MR. WEGENAST: There is no reason in the world why the labour unions even should not make representations to the Board, and have a large share in it.

THE COMMISSIONER: How will this and the Factory Act stand together?

MR. WEGENAST: Well, my own idea has been that it is probable there would be an ultimate merging of some of the functions of the factory inspection system in the compensation system, so that the inspection would be impelled from within, and would be conducted with a view to the reduction of the accident rate and the rate of the insurance premium, thus affording the advantages of voluntary action as against compulsion from without. But that, I thought, was a matter for subsequent consideration and a matter of detail.

THE COMMISSIONER: I should think a Board such as you suggest for the management and settlement of these claims would not be the Board best qualified to deal with the preventive measures in a factory.

MR. WEGENAST: Well, the practical way of looking at it comes down to that. What I thought would happen is this: Supposing you went even only to the extent of the Washington Act, and created only certain classes, there would be means found inevitably for getting the employers in those classes together to take united action. The Act might well afford facilities for doing that; but whether the Act did or not these employers would get together and frame preventive regulations and make their wishes felt in the department in charge of the insurance. For instance, supposing the manufacturers of agricultural implements thought an expert draftsman of machinery would reduce their insurance rate, I have no doubt they would get together in some way and employ such a man at their own expense. I think the act might well afford facilities for appointing such a man at the expense of the employers, or the employers and employees jointly, or whatever the method might be, with the consent of the Board. But with regard to the general principle I think there can be no doubt. I think it would work out in that way voluntarily if facilities were not afforded by the act.

MR. BANCROFT: I think in the mutual associations in Germany the employers do that.

MR. WEGENAST: Yes, the employers do that.

THE COMMISSIONER: That is all right. I was talking about State inspection. It would not do to abandon the State inspection.

MR. WEGENAST: I think not; at all events not at present. I would think it very probable, however, that ultimately that the factory inspection end that is now handled by the department here would be obsolete.

THE COMMISSIONER: You must be one of these men who are looking for the millennium very soon.

MR. WEGENAST: Whether I am or not, the committee with whom I have been associated, I think, would probably resent such an implication. With us it is a matter of business, and is looked at very largely from a business standpoint.

"The Board should also have charge of the adjustment of insurance rates and the classification of industries."

Many questions might be raised there, but they are questions of detail which would be subject to adjustment and working out.

"The annual assessments of insurance premiums should be levied upon the basis of the current cost of compensation payments with a margin for an emergency fund."

THE COMMISSIONER: What does that mean, "Current cost of payments"?

MR. WEGENAST: Paying only what is required for the particular year under the plan that was adopted by Germany, and the plan which is expounded by Mr. Dawson.

"A percentage of the premium rates representing the proportion of the accidents due to the fault of the workman should be chargeable at the option of the employers, and, upon due notice to the workmen, and deducted by employers from the wages of the workmen."

THE COMMISSIONER: I do not understand that. You have nowhere suggested that the workman should pay for an accident that he causes. You have said he should be disentitled to recover.

MR. WEGENAST: No. If I have seemed to say that I did not intend it so.

THE COMMISSIONER: Do you mean to say the idea is if the workman through these causes that are mentioned in the earlier part injures the machinery, or injures another workman, that he has to pay for that?

MR. WEGENAST: Oh, no, the idea is that the workmen collectively shall contribute a portion of the insurance premium. Possibly the Ohio Act will illustrate it, where ten per cent. of the amount of the insurance premium paid on behalf of the workman may be deducted from the wages of the workman.

THE COMMISSIONER: Ten per cent. of what?

MR. WEGENAST: Ten per cent. of the insurance premium paid on behalf of the workmen. Under the Austrian Act ten per cent. is deducted. Under the Swiss Act 25 per cent. is deducted. The whole question of contribution by the workmen, is, as I have stated before, largely a matter of detail. In one sense it is a matter of principle, and so far as the Manufacturers' Association are concerned they are prepared to lay their arguments and their principles before not only your Lordship, but before the labour people, and leave the issue. On the general principle we could not conscientiously give way. There are different methods, of course, of contributing. The method under the German Act is a waiting period of thirteen weeks.

MR. BANCROFT: Do the workmen contribute to workmen's compensation in Germany?

MR. WEGENAST: The system of having the burden of the accidents thrown upon the employees themselves for thirteen weeks is estimated to throw approximately 17 per cent. of the total cost of accidents upon the workmen.

MR. BANCROFT: That was only due to the social insurance being in existence before the compensation.

MR. WEGENAST: I am not speaking of the cause of it.

MR. BANCROFT: The mutual associations of Germany have full administration of workmen's compensation just as you point out here, and they take their own measures for the enforcement of preventing accidents because they bear the whole cost, and wherever the workmen contribute to either sickness or social insurance, or anything else, they have the full representation they are entitled to. They have

representation by taxation on the administrative Boards of the social insurance of Germany. Now, another thing, Mr. Wegenast, there is not an act in the British Empire either in existence or proposed, where there is contribution from the workmen. It is retroactive.

MR. WEGENAST: I can tell you three or four, but I do not want to enter into a discussion of that at present, because we will get involved pretty well if we do so. We are willing to lay our arguments before your Lordship, and before the labour people.

THE COMMISSIONER: Mr. Dawson's argument that you have just referred to would displace one of the arguments in favour of making the workmen pay a portion of the cost. It was said if he had to pay that he would be more careful and there would not be so many accidents. He does not recognize that at all, the carelessness of the workman.

MR. WEGENAST: Of course, there are other factors entering into that.

THE COMMISSIONER: My understanding is he does not recognize that.

MR. WEGENAST: I could quote quite a number of expressions of opinion from the leading authorities in Germany that the fact that the workman bears the burden for the first thirteen weeks in Germany does tend to reduce the number of accidents, and does tend to induce care, and particularly tends to reduce malingering and fraud. However, those are matters that I intend to go into later.

MR. BANCROFT: Mr. Dawson says that the whole burden of compensation in Germany is upon the employer himself.

MR. WEGENAST: If Mr. Dawson said that it would be wrong, and it would not alter the fact.

THE COMMISSIONER: I think there is a distinction without a difference there. You are not saying there is any direct contribution in Germany, but an indirect contribution by reason of there being no claim upon the fund for the first thirteen weeks, and in England there is the same thing for the first week, I think.

MR. WEGENAST: Yes. Let me say, while we are at that point, that the original intention of the British Act was that the workmen should contribute by a waiting period of three weeks, and the whole matter was placed upon that basis expressly by Mr. Chamberlain, who introduced the act. He said the self-respect of the workman would stand in the way otherwise, if he allowed the employer to bear the whole burden, and that this three weeks' waiting period was the contribution of the workmen. I can hardly believe the figures, but it is estimated by Mr. Boyd, I think, that the workmen's taking care of the accidents for the first two weeks will eliminate 41 per cent. numerically of the accidents. Of course that does not eliminate 41 per cent. of the cost, but it reduces the number of accidents 41 per cent., apparently, as 41 per cent. do not last beyond the first two weeks. The figures, as I say, look large to me. However, Mr. Boyd will be here to-morrow. At any rate where there is a waiting period the workman does contribute undoubtedly.

MR. BANCROFT: In what way?

MR. WEGENAST: It is surely not necessary to elaborate on that.

MR. BANCROFT: He does not contribute.

MR. WEGENAST: Another method of contribution, of course, is by a deduction or by a reduction of the scale of compensation. In some systems it is estimated that the workmen should contribute by having the scale of compensation a certain figure. For instance, instead of having the scale of compensation 60 per cent. of the wages the schedule is reduced to 50 per cent., and it is considered

that the workmen bear that ten per cent., or that ten per cent. along with the other 40 per cent. of his loss.

"A percentage of the premium rates representing the proportion of the accidents due to the fault of the workmen should be chargeable at the option of employers, and, upon due notice to the workmen. and deducted by employers from the wages of the workmen."

I regret exceedingly from a purely tactical standpoint, if nothing else, but it is necessary to insist upon that principle, because it is the only outstanding difference between the employing and the labour interests, and, as I say elsewhere in my brief, while there is a difference of opinion amongst the authorities, and while Mr. Dawson is indifferent as to contribution, neither for nor against, and while some of the other authorities are indifferent, and some opposed to contribution, there is a large body of opinion in favor of contribution and of the general principle. It represents a constant source of irritation, no doubt, but that very irritation may be the means of emphasizing and impressing the necessity of preventive activity on the part of the workmen as well as the employer, and I doubt very much whether the full attainable measure of preventive activity can be got without having a pecuniary responsibility thrown upon the workman.

THE COMMISSIONER: Following up your argument, if you adopted the British plan, which does not give any compensation for the first week in certain cases, would you not get the fund relieved more than it would be by the percentage you are proposing?

MR. WEGENAST: Well, I had no idea that an act would be proposed which did not provide for a waiting period of one or two weeks.

THE COMMISSIONER: There has been no suggestion of that yet.

MR. WEGENAST: No, but the consensus of opinion is that the amendment of the British Act reducing the period to one week was a mistake, and that two weeks waiting period is necessary if for nothing else than preventing malingering, and the whole question, of course, resolves itself into what length the waiting period should be, if you adopt that as a means of workmen's contribution.

THE COMMISSIONER: That waiting period is only conditional. If the injury continues for a certain time it is cut down.

MR. BANCROFT: Hear, hear.

THE COMMISSIONER: What reason would there be for waiting if a man had his hand or his leg cut off?

MR. WEGENAST: If that principle is adopted, the contribution by a waiting period, the legislators would at once advance that very idea. why should a man wait if he has got his hand cut off, forgetting altogether that the intention is to throw a burden of the cost upon the workman or allowing him to bear the brunt of his injury.

THE COMMISSIONER: No, that I do not understand to be the principle at all. The principle is to prevent, as you say, malingering. There may be trifling accidents that do not seriously interfere with a man's getting back to work, and if he had no incentive to idle he would go back to work. That is the principle I have heard advanced for it.

MR. WEGENAST: That was not the intention in the original act, which it must be remembered was supposed to be based upon the German Act. I have the quotation from Mr. Chamberlain's speeches in the House of Parliament, and his idea was that a three weeks' waiting period should be there as a preservative to the self-respect of the workman. He says if there was no injury lasting more than three weeks the workman would be well able to take care of it himself.

I do not want to go into the matter further this morning. I would like to call upon one or two members of the Association to address the Commission. Mr. Atwell Fleming and Mr. Samuel Harris are here.

THE COMMISSIONER: We will be glad to hear them.

MR. WEGENAST: I regret that I am not able to go on this afternoon. I had intended to have had some of the members here to address the Commission, but the Secretary informed me that the Commission would not sit this afternoon.

THE COMMISSIONER: I do not know how he got that impression. I intended to go on this afternoon. To-morrow the Commission will sit both morning and afternoon, as well as the evening.

MR. ATWELL FLEMING: Your Lordship, I hardly expected to be called on to say anything in connection with this matter. Our case was left almost entirely to Mr. Wegenast to present to you, and anything I could say would possibly be just along the lines of my own experience and my own thought as a small manufacturer. I have always thought, your Lordship, in connection with this question that I would like to have some scheme whereby, instead of paying money to an insurance company to protect me as against my workmen, that I would prefer to pay even more money, and have some scheme whereby the workmen would receive the benefit. A great many men that I have run against in connection with this matter are of the same opinion. Now, it might be asked, why do you not pay more money and have it entirely for the benefit of the workmen. It is simply because we are afraid that if we have an accident in our shop an action will be entered against us in the courts and we will have to pay what we considered extraordinary compensation, or as it is usually expressed, held up for all they can possibly get out of it. If some scheme could be arranged on the lines of what we have suggested whereby we could pay even considerably more money and that the money we do pay would find its way to the workmen without having so much deducted from it, I think that would be in the line of what we think would be right. I was particularly struck the other evening in hearing Mr. Meredith, the representative of the Grand Trunk Railway Men's Organization, saying in a case where a party was entitled to compensation and they had been offered, I think he stated, $1,000, and he had advised them to take it, and they had evidently received a great deal less than the amount of compensation. That seemed to my mind to embody the idea which I wish to convey, that while to-day a great number of employers are spending a great deal of money the workmen are not getting the benefit out of it. If we could pay a fund whereby, instead of antagonizing the workman he would have a call on that fund and get adequate protection through it, I think that is the thing that we would prefer. There seems to be an idea in connection with this matter that the employers wish to be antagonistic to the workmen. I presume that is a condition which has arisen through the state in which the law is; but in meeting on various committees in connection with this matter, I have been struck with the wonderful amount of sympathy that there appears to be in the hearts and minds of the various employers whom I have met in respect to workmen who are injured. I fear they have been compelled to assume an attitude towards the injured workman by the condition of the law that they would not assume as individuals. I mean by that that I have found in discussing the matter—and I can assure you it has been very, very gratifying to me—that men whom I thought were hard-hearted and who would go to almost any length to oppose an action for damages, were really men who would go to almost any length if they could see that the workman was compensated. They

have been deterred, however, and have had to assume that attitude simply because of their insurance in employers' liability companies. They are compelled by the employers' liability companies to leave the matter in their hands, and very, very often when claims could be settled, and settled amicably, and where the workman would have received, perhaps not what might be termed adequate compensation, still he would have received generous compensation, if it had been left to the company that was interested. But they have been compelled to defend it through the action of these employers' liability companies, and eventually in order to settle the case, it has cost not only the company insuring, but the liability company, probably double the amount of money which it could have been settled for in the first place. That represents to our minds a very, very great waste of time and a very great waste of money. If a larger proportion of that cost could eventually find its way to the injured workman, that is what we want, and that I think is the gist of what I want to say. That is the main idea, to have that money which it is really costing to-day, instead of being diverted from the injured workman, to get a greater proportion of it to him.

Mr. Wegenast: You do not see any difficulty as a practical business man in the Government taking this matter up and working it out?

Mr. Fleming: Well, I am not sufficiently informed on this matter, but I would think that if it is possible for an insurance company to do the amount of business they do, and handle the vast sums of money, and the vast number of applications, and all that sort of thing, which they do, that it would be possible for a Government to institute a department which would handle workmen's compensation. As to the cost of it, I am not prepared to say anything on that point, but I presume there is information extant somewhere that could be got and that would be safe to work on.

Mr. S. Harris: Your Lordship, I have sat at this table with Mr. Wegenast for some time, and therefore the remarks I would make would only be taking up time in going over the same things which he has said, and which Mr. Fleming has said. There is one thing, however, I would like to impress upon the Commission, that while we are talking about compensation and prevention, and something along the lines of contribution; if we could get education it would go much towards cutting out the administration of compensation, and I believe that the Government could handle it much better than, or any way as well as, a private corporation can handle liability insurance. There is no question about it that the Government is handling the railways and the Hydro-Electric. It was the Railway Commission I was referring to particularly, but we have also a commission running a railway in the north country very satisfactorily, and I cannot understand why the Government could not handle this, and by that means the stability of the fund would be, as near as possible, perfect. I want to emphasize what Mr. Fleming said, and say that I have not met an employer who is not anxious to see that the injured man gets everything that is in it, and everything that is possible for him to get.

The Commissioner: There was something that came to my attention a short time ago. In a large factory where there was a stamp machine, with a number of machines practically in the same room or the same department of the factory, the evidence was that all the employees were instructed how to use these machines, and were told that after they had gone through the operation of stamping they must not on any account keep their foot upon the treadle because they might by involuntary action bring the thing down again. A number of people were

employed who were not skilled at all. They are sometimes foreigners, I should judge, from what came out, and these people do not realize the danger of disobeying instructions they get, and that very often their feet are kept upon the treadles contrary to instructions, with the result that accidents happen. Now, I do not see why in a case of that kind where the employer of labour knows that these people are likely to disregard the instructions, there could not be somebody moving about among them all the time to see that the instructions are being obeyed, instead of leaving these people to themselves without any inspection, and without any watching or care of them. That is perhaps not germane to what we have been discussing this morning, but it did seem to me that a great many of these accidents could have been prevented at practically a small outlay by having somebody going about superintending these foreigners while they are engaged in those dangerous occupations, because it was dangerous if they failed to regard the instructions they got.

MR. FLEMING: I can easily conceive in a great many factories, where men are at work with very large machinery, and all that sort of thing, that that might be all right, but in a great many of the smaller factories it wouldn't. Your lordship used the word "treadle" when perhaps the word "trip" would be a better word to use.

THE COMMISSIONER: Yes, that is the operation.

MR. FLEMING: Now, you understand there is a fly-wheel running, and there is a very sensitive trip down below, and when he wishes the machine to punch he almost involuntarily touches that trip and down the machine comes, and the operation is performed, and the machine will go on operating that way just as long as he keeps his foot on the trip. There are some machines where they have to trip for every operation. That is, for every punch that goes through they will use their foot to trip it. Sometimes they will be talking and they will have their hands here or there and almost anywhere, and while they know absolutely that the slightest pressure of their foot on that trip is going to cause that machine to make that performance, and if their finger is in the way it is going to be cut off, still it happens. I have had a man, and even the superintendent of the factory, who was adjusting a machine and knew absolutely that he should be very careful with regard to that, who took off the end of his finger. The very slightest touch of the foot will do that. So that an inspector walking up and down would not prevent these things. You can easily understand how it would be. The moment his back was turned it might happen, or it might happen with him standing right there.

THE COMMISSIONER: I was speaking of a case where there were thirty or forty people standing in close proximity. The evidence in this case was it took a pressure of 35 pounds to trip the machine. Would it take anything like that pressure with the machine you were speaking of?

MR. FLEMING: No, the slightest touch. I was speaking of a machine where they cut out cardboard, such as index cards. There is a knife comes down with the slightest pressure.

THE COMMISSIONER: Is there no guard that would apply to such a machine?

MR. FLEMING: No, the machine has to perform that operation and you have got to put the card in. The machine will not come down unless you touch the trip, but the instant you touch the trip down she comes, and you haven't a second to think, because your finger is off before you can think.

MR. WEGENAST: The larger consideration that comes up there is perhaps what is in your Lordship's mind. Something more is needed than simply the in-

dividual effort of the employer and the individual care of the employee. It needs somebody to suggest and enforce preventive care that is not enforced now.

THE COMMISSIONER: You could not do anything at all in the case of men working with such machines as I was speaking of, or Mr. Fleming was speaking of, unless it was by close supervision of them while they were at their work.

MR. WEGENAST: My point is that if it was found under a collective system that accidents did happen with undue frequency in cases of that kind the best way would be found, whether by instruction or otherwise, to stop it, but when it is every man for himself and he is insured in a liability company it is not done.

THE COMMISSIONER: I fancy a very considerable percentage of the accidents where fingers are lost occur in these paper box factories, and tin factories, and places of that kind, where that kind of instrument is used.

MR. FLEMING: When we met the commissioners from Quebec, when they were trying to frame their law, I was struck with what one gentleman on that commission said. According to the statistics which they had, which were gathered from all over the world, they stated that there were a certain percentage of accidents which happened owing to the fault of the employer, a certain percentage of accidents which happened owing to the fault of the employee, but the very great number of accidents which did happen just simply happened, and they couldn't tell how they happened. I may say I very rarely have an accident in my factory, but they do happen. The other day a man who is the superintendent of a department, was making a form on a Gordon press. There is no particular danger about it unless a person gets their hands caught in the machine, and then of course they will get squeezed inevitably. The superintendent was making ready a form on that press, and he was actually moving the fly-wheel with his hand. The machine was not operating with any speed whatever. He was simply holding a sheet of paper in there with his hand, and he knew absolutely if he kept on moving that wheel he would squeeze his finger and yet he did it. I said, "Bert, you must have been thinking of something else." "No sir," he said, "I was thinking of my business and holding that sheet of paper." He was so ashamed of it; I suppose he was more humiliated himself in regard to the matter than you could possibly imagine, and anything that I could say would not add to his discomfiture, because he felt badly enough. Now, those things do happen, and when the accident happens, as it will in connection with almost any industry, we feel of course there ought to be some provision whereby the man should be compensated. The details of course of it will have to be worked out.

MR. WEGENAST: It has been urged here, and I almost hesitate to raise the point, because no amount of urging would establish the fact in the mind of any reasonable person, but it has been urged here that practically no accident happens owing to the fault of the workmen, and there is always something about the hazard of the industry or the risk of the premises, or something of that kind, which is responsible for the accident. Now, in your experience, do you know if there are accidents that happen entirely or almost entirely owing to the fault of the workman?

MR. FLEMING: Well, I would say in connection with the accidents I have seen I have invariably thought that it was due absolutely to the carelessness of the workman. To my mind there was simply no doubt about it. All of you are familiar, of course, with the ordinary elevator in a factory. There is an automatic gate on that elevator and just as soon as the elevator starts from the bottom the automatic gate comes down to prevent anybody walking into the elevator

well. Last October a man that I had employed with me wanted to go upstairs on the elevator. The shipper and engineer were on the elevator, and had started the elevator just as he ran to jump on. Now, all he had to do was to stand stock-still and say I want to go up, and they would have come back for him, but he thought he was quick enough to get in there ahead of that gate. Now, anyone with any common-sense would not do it, but he did it, and the gate came down and hit him on the nose. I might say, your Lordship, that it is almost invariably, so far as I have come across employers, even though they are insured in an Employers' Liability Company, and even though they are compelled by that company to take an attitude as against the workman, they invariably send that man as quickly as possible to the doctor, and they pay the doctor's bill, and as a rule they pay the man's salary while he is off. They are insured however. They must have that protection for fear that that man may be induced to go to court and say that he is injured to the extent of $1,000, or $2,000, as the case may be, and even in defending the case they are put to enormous expense. Now, that man was sent immediately to a doctor. I really didn't think he had any more than the skin knocked off his nose. No, he went to the hospital first, and they could not attend to him, and he went to the doctor. The doctor called me up and said: There has been a man injured in your place, shall I attend to him? I said, certainly, fix him up. The man came back and he had a great lot of plaster and cotton batting, and one thing and another all over him. I would have thought he had gone through a threshing machine instead of having had a bit of skin knocked off his nose, as it appeared to me. Well, the man left me in three days and didn't come back again. Perhaps it was a little longer than that. However, he was taken away by another employer, and the doctor sent me a bill for $15. I thought it was exorbitant, and I told him so, but I sent him a cheque for $10. Well, the man said it was due to his own carelessness and he thought he ought to pay something but he never did, and that was the end of that. I have said this because you asked me if I thought it was due to the workman's carelessness or not. Well, I have seen quite a number of accidents in my time, and they were always attributable, or at least I thought so, to his carelessness—absolutely downright carelessness,—and if there is anything that the labour men can do they should do it. If they would preach that in their unions, that every man should be careful, it would be a good thing. No employer wants a man to risk his hand or leg or foot, or any part of his anatomy, in connection with his business, and if they will only use ordinary horse sense and be careful there is no reason in the world why they should be endangered. That is, with the general run of modern machinery that we have to-day; but the fact that they do get injured is of course obvious.

Mr. Miller: I would like to say a few words in connection with the blame that is being attached to the workmen in connection with those factory machines. I have been working since I was a boy fourteen years of age. In connection with the illustration that Mr. Fleming gave us I want to point out how it is possible for the most careful man in a factory to get hurt without taking part in the actual operation. Those machines are performing various operations at the same moment, and that superintendent of Mr. Fleming's, when he was operating that machine only by moving the fly-wheel with his hand, is an illustration. His thoughts were so concentrated on the one portion of the operation that he forgot his fingers were actually in the way of the machine's operation. Now,—under those circumstances, giving the man credit for being careful and trying to do his work at the same time in the best possible manner, it is possible for the most careful man in a factory to be nipped in that way. I have seen it time and again. The man is so careful,

but so concentrated in one portion of the operation that he forgets entirely the other, and it is through his concentration on one portion of the operation that he gets his fingers caught.

Mr. Harris: My hands show where I have been nipped several times, both when I was working as a workman at the bench, and since when I was a working employer, and when I look back I can say it was my own fault. I remember one time getting nipped with a big load of stone on a truck. I was simply an ass to get into the way. When I was a workman I had this finger torn, and it was my own fault. I foolishly put my hand in a place where I knew there was danger. I couldn't blame the employers though the employers were there, but whenever I did anything like that they were very decent to me, and I have tried to be decent to my own men. I just wanted to refer to a few instances that came under my notice in the way of accidents. At our own factory we had a belt running a couple of feet from the floor, but it was fenced off so that to get in there you would have to deliberately get over the fence. One day one of the lads—I didn't know it, but he had been fooling in some way and got a stick over, and he made a jump to get over the belt. He pulled off the switch to disconnect the electric motor, but the machine was still running, and he made a jump to get over and he missed it, and he hit the belt and his foot went in and it broke his leg. Now, if he went right behind that guard he wouldn't have got into that trouble. That cost me quite a lot of money, for I took care of him and saw that everything was looked after, and I took him back again. I had another case in my mind. There were foremen around the place watching them. but if they are going to do things on the sly they are going to do them. A boy threw some water on a man, and the man ran after him, and the boy ran behind a machine and the machine was like in the corner of the room so that you would have to run into danger to run into the corner. The boy to get away from the man ran into the corner and the man after him, and they started to wrestle, and he threw his leg up and he caught it into a gear which was guarded on the top but not on the bottom, and that gear ripped down his leg. Well, we fixed him up, and that cost us some money, and took him back. He left me in in a very mean way. but he had a chance. Then there was another case came before me. He was a feeder on a machine and he was running it, and they were fooling and throwing some joke at somebody else, and as he put his foot on the stand of the press he slipped. and as he slipped he fell over and his hand went under the machine opposite and he had his hand badly hurt. All this goes to show it was the fault of the workmen. There wasn't anything about the machine to injure him if they were acting properly.

The Commissioner: What made him slip?

Mr. Harris: He was fooling. He went to make a jump for this stand and miscalculated and slipped.

The worst accident I ever saw or had anything to do with myself. was where a lad lost his hand in my own place. He is with me yet and I am trying to compensate him by teaching him to be a traveller. I am looking after him in every way so that his livelihood will be even better as a traveller, his earning power would be better, than a mechanic. I cannot give him his hand back but I can do what I can to see that he is not handicapped in life's battle. This lad was a very good boy too. The machine was not running more than 600 revolutions an hour, and that is pretty slow. The boy was a good boy and he was getting his form ready, and he was feeling very happy in the fact that it was all ready to go ahead, and he took the sheet off with his hand some way. and he was humming some kind of a tune. or whistling. and he laid his other hand right on the plate. and he

had put the form down and was looking at it. and his hand went right off. He didn't do it on purpose. Just like Mr. Miller said he was concentrated. It wasn't like some who are looking always for six o'clock, and pay day to come. I bought him the best hand I could buy and took care of him, and paid his salary, and now I am training him to be a traveller, and I hope by that means to start him off in life in a fair way. But in these cases, and even in my own case, it was carelessness on the part of those who were doing the work.

Mr. James Simpson: Will you just bear with me while I give one illustration. When I first came to Canada I went into a tin factory and worked there for three years and three months. There was one department in this factory where there was a very good foreman, and his duties were generally to instruct the other fellows how to work with their machines so as not to meet with accidents. One day he was fixing a machine, and it was a case of putting the dies into a certain press to get it out of a certain amount of tin. He was an exceptionally careful man. He had the belt off the tight pulley on to the loose pulley, but he had got the dies in such a position where they were just about accurate, and he had turned on the belt on to the tight pulley. He had left the hammer on the side where he was placing the dies, and he had let the strip go once or twice, and he felt it had caught a little. He hadn't his foot near the trip at all just at this moment, but for some reason or other he had just put his hand inside the die to kind of give it a little shift over, when the hammer with the vibration of the machine fell on the trip, and the die came down and cut his hand off. It was a clear case of accident. I don't know whether you would call that an accident, but he had his foot away from the trip altogether. He never anticipated any danger, but he had forgotten all about the hammer, and the vibration of the machine forced the hammer onto the trip and off went his hand. Now, some people might say that was carelessness and say, "Why did you leave the hammer on the machine?"

Mr. Fleming: It is pretty hard for a man to think and do two things at the same time. Either he may go a little wide, like in a game of curling, or not go far enough. If he gets both things right at the same time he makes the shot. Similarly with a man on a machine, he has got to think of more than one thing at a time, otherwise things are going to happen. I heard of a case the other day. Who would be at fault in a case like this? Of course in all these accidents, no matter whether it is the workman's fault or the employer's fault his family suffers all the same, and we want to enunciate the principle that if a man is injured his family is entitled to something, no matter whose fault it is. But here is a man goes into a factory, and he has no business in that particular department at all. There is an electric hammer there, and he picks it up, and these things work very fast. You have heard these hammers rattling when buildings are being riveted. He takes hold of the thing and he looks down the barrel of it—a very foolish thing to do with a gun—and the first thing he touches a spring and the thing shoots out and hits him in the eye, and the eye is gone. Whose fault is it? He had no business touching that tool at all, but he did it, and the accident happened. All these things have to be taken care of. It is just one of these things in the general average of accidents that happened. We as employers think that while we believe that a man should be compensated, still there should be something which will deter a man from being grossly careless or drunk, or doing things on purpose. While we feel his family should be compensated in some way, we feel there should be some penalty whereby you can deter that man.

Mr. Simpson: Your Lordship, just let me give you an illustration. Here

is a sheet of tin. In the interests of the economy of production the manufacturer always seeks to get as many round pieces out of a given quantity of tin as he possibly can. Of course the action of the press depends upon the trip and the man has his foot generally on the trip, and he touches it every time he wants the die to come down. There is a square piece of tin. When he is cutting over at this side there is no danger because his hand is over here, but when he gets to this end his hand is getting nearer to the die. I have seen half a dozen accidents in factories where the accident has happened in the interests of economy, just getting too close and putting his finger too close, and off comes his finger.

In my opinion a system of workmen's compensation will always work out in this way, that the employer who has a machine of that nature, if the most of the accidents result from the involuntary use of the foot on the trip, will devise some other means of operating that machine. Although I am not a mechanic by trade I see no reason why the trip should not be abolished altogether, and the action of putting a piece of sheet iron or a piece of tin into this die, if it was a certain gauge the machine would operate, and it would eliminate entirely the foot action altogether, and it would simply eliminate a great deal of danger to the employee and be a great benefit to the employer. Being a member of the Royal Commission on Industrial Training I have been in a great many factories in Canada, and I have observed, as one factory has been mentioned, the International Harvester Company—I have observed their system, and it is a good one for the prevention of accidents for this reason, that they are always encouraging the employees by a bonus or some kind of reward to invent some kind of preventive device which will eliminate the risk in their factory, with the result, as you will find, according to the statement of the representative of the employers, that accidents have been to a great extent eliminated, and their premiums are much less than they would be if they were participating in any other kind of insurance scheme. The risk involved in connection with the operation of machinery is bringing a great many manufacturers to substitute the automatic machine for the humanly operated machine, and I was rather surprised to see in a number of manufacturing establishments five or six machines being operated without a piece of human power attached to them.

Mr. Wegenast: You wouldn't like that?

Mr. Simpson: Never mind, the time will come when this will work out to be a benefit. To-day it is not a benefit, but the day will come when it will be. I am merely illustrating that when you place the responsibility upon the employer the tendency is in the direction of prevention. He will see that his factory is run according to the best methods, and he will see that the accidents will be eliminated.

Mr. Harris: The employee is careful when you give him a bonus?

Mr. Simpson: No, that wasn't the statement I made. My statement was the giving of a bonus to the employee to invent something that would be to the advantage of the employer in preventing accidents, and it had resulted in some of our factories being much improved along that particular line. I have always contended, your Lordship, that, so far as the workmen are concerned, in my estimation no workman would be insane enough to purposely be so careless as to cut off a finger or endanger his own life. There must be a great many other factors entering into the cause of such an accident if such occurs. If he is drunk while at his occupation and an accident occurs I say the fault rests with the employer for having such an employee in his employ, and the labour movement in this country

will strongly condemn any employee who so disregards his own family and personal interests as to go into a factory drunk to his daily occupation. The fact of the matter is to-day you will see that the big railroad corporations will absolutely not employ a man where life is at risk at all who indulges in intoxicating beverages. We are heartily in accord with that, and we strongly condemn a man going into a factory and endangering his own life and the interests of his family who are dependent upon him.

MR. WEGENAST: There is one method of penalizing employees for carelessness and misconduct, to make the penalty not contingent upon the accident happening, but to have a penalty in every case where there was carelessness, and to have some method of enforcing the rules, because it is not always the careless man who is injured.

THE COMMISSIONER: You would want another court to enforce that.

MR. FLEMING: I would not like to leave the statement unchallenged that it is the employer's fault if a man is drunk at his work. Your Lordship, I have on more than one occasion had a man come into the shop where I was superintendent in the old days, and that man would be perfectly sober when he came to work, and he could set type and set type well, and at ten o'clock in the morning I have found him entirely incapacitated at his frame. He had become drunk after he came into the shop. Now, that does happen. It is easily understood that no employer will let a man who is drunk and knows he is drunk go in and go to work, but there are any number of instances where men will come in perfectly sober and will become drunk after they get there.

EIGHTH SITTING.

LEGISLATIVE BUILDING, TORONTO.

Friday, 19th January, 1912, 10.30 *a.m.*

Present: SIR WILLIAM R. MEREDITH, *Commissioner.*
MR. W. B. WILKINSON, *Law Clerk.*

THE COMMISSIONER: Is there anyone who wishes to be heard this morning?

MR. WEGENAST: Mr. John Ransford is here, and I would like if your Lordship would hear what he has to say, as he is anxious to get away.

MR. JOHN RANSFORD: My Lord, I have not come here prepared as I would like to have been had I known that I would have been asked to give any evidence before a meeting of this description. Being in the city, I called on my friend Mr. Wegenast this morning, and he said, I wish you as a man who at one time earlier in life was hired out in the lumber woods in the United States and knows some of the conditions of the workingman, and also as an employer of labour, and as a member of the Manufacturers' Association, but one who has not been connected with the committee in any way or shape, would tell the Commissioner briefly your views upon the subject. I have been an employer of labour now for a great many years, and have gone through necessarily the various stages that

we have to pass through in this country with regard to the relations between employer and the employed. Of course, as your Lordship is fully aware, many years ago there was little or no legislation upon this subject, and the conditions existing then between the employer and the employed were more satisfactory than they are to-day. I mean by that that there was a very faint reflection of the feudal system in this regard, that the employer looked upon his employees with more or less of a protecting aspect, and I think I would be borne out by others in saying that, generally speaking, there was a much better condition of feeling pertaining between the employee and his employer. In other words, if any man got hurt during the time he was acting in that position the employer would almost necessarily do what he could as regards helping him in any trouble that overcame him. That condition of things gradually changed until we were finally face to face with a very objectionable condition, namely, that of the unscrupulous lawyer who, the moment he hears of an accident, no matter where the fault may be, instantly rushes off to the bedside of the employee, and conjures and implores him to let him take up the case and conduct it for him, engaging to charge him nothing unless he gets his costs out of the defendant. That condition of affairs gradually got worse and worse until to-day it is almost proverbial, and consequently many manufacturers have been more or less against their will driven into the position of taking out an insurance policy with a company, which is detrimental, to a large degree, to the best interests of both employer and employed, and also of that condition of things which allows the friendliness and good fellowship and mutual regard that should exist between employer and employee. In other words, this policy that we take out, as you well know, my Lord, simply transfers the obligations of fighting any and every claim to the insurance company and leaves the employer to a great extent free. A very great objection, of course, to that is that it is not in one way fair upon the employees in that they have to withstand the whole influence and money power and fighting ability in various directions of this insurance company. Therefore, I for one at least, and I am sure I speak for a large number of my fellow employers of labour, say that we would gladly welcome anything in the shape of legislation that would ameliorate that present condition of affairs. As I told you, I have not had the time to give to this that I would have liked, and my ideas consequently are in somewhat of a crude condition, but at the same time I have given it enough consideration to have determined that so far as my own unimportant individual opinion is concerned I am strongly in favour of legislation whereby all such troubles and accidents to employees should be provided for by an insurance scheme to which the State should lend its aid to a certain extent, the employer also, and the employee also. As to what actual fraction of the whole the employee should pay and the employer should pay, and the State should pay, is a matter that I am not prepared this morning to express my opinion upon. It is more or less to my mind a matter of detail, or can be more or less easily arrived at without any needless friction; but that the State should bear its part, and that the employer should bear his part, and that labour should bear its part, I have not the shadow of a doubt. It would be beneath the dignity of labour to consent to anything else, in my opinion. It is the manifest duty of the employers to do likewise. Although born a Tory, I might say, with more or less strong conservative feelings, I am not at all scared by what some people call the socialistic tendency of such a measure as I propose. If it is to be socialistic it must be, but that need not be an insuperable barrier in my mind. I agree

fully with one item that I heard my friend Mr. Wegenast speaking of in presenting his brief before your Lordship, and about which your Lordship also made some remark, namely, that no class of the community should be exempt. If it is necessary, as I think it is, to introduce both domestic servants and farmers, and others who are now outside the pale of this more favoured region, I see no reason why they should not be. I have long been at a loss to understand why as a manufacturer, if I employ a man to work for me I am exposed to certain responsibilities as regards his care, the proper conduct of my work, safeguarding machinery and other apparatus that he has to deal with in his daily work, why I should be responsible for any injury that may come to him—if I am careful in every proper regard, why that condition of things should obtain to me as a sock manufacturer, and the very same day and the very same year as a farmer, which I am, I can have my machinery around the farm in any state of disrepair, in any state of danger, it matters not, and the man who is working on my farm may get injured, and I am immune from all responsibility.

THE COMMISSIONER: Perhaps that overlooks the fact, Mr. Ransford, that you would be liable in a case at common law for neglecting to provide proper machinery. The common law liability would remain there.

MR. RANSFORD: I merely stated that, my Lord, because I was under the impression that the farming community were immune from responsibility.

THE COMMISSIONER: No, they are immune under our act, and some other acts, and I suppose from what Mr. Boyd has told me they would be in the State of Ohio, because there are very few farmers employing five men.

MR. BOYD: At present they are immune, but in the course of a few years they will be brought under the act too.

MR. RANSFORD: I was very much struck in this regard by a lecture I listened to by a gentleman from the States last Fall. While statistics in North America generally were wanting, yet from Germany he was able to furnish them, and to my utter astonishment he showed us that the statistics in Germany proved that accidents to the working classes on the farm were far more numerous than any other class.

MR. BOYD: 43 per cent. of all the accidents.

MR. RANSFORD: Greater than braking on the railroad, greater than tending a buzz-saw, greater than working on a scaffold in bricklaying, or working as a locomotive engineer. Any calling you can mention fell down in comparison to the number of accidents that happen on a farm. Another very surprising thing that struck me was this: that not only was that the case, but the principal source of accident on the farm is not in connection with machinery such as threshing machines, mowers or reapers, as one might expect, but the large percentage of accidents on the farm arise from the comparatively trifling sources of the falling of ladders, the falling of pitchforks, and such like. I do not know that there is anything else that would warrant my occupying your time.

THE COMMISSIONER: I would like to ask one question. Of course, to get at the bulk of the accidents, the number of accidents is not probably a fair test. It may be that a large majority of the farming accidents are trifling. However, I suppose there are statistics which show how that is.

MR. WEGENAST: Yes, your Lordship, there are complete statistics.

MR. DOGGETT: I would like to ask a question. Do you not think the workers would pay enough by being consumers, and also if the State took some part of the burden of insurance that they would also, as tax payers, be paying again?

MR. RANSFORD: As I told you, I am not at all prepared to say yet what fraction should be borne by the State, what fraction by the employer, and what fraction by the employee, but I do think that labour itself would demand as its right that it should pay a certain percentage. I do not think that it would pay enough under present conditions, without paying something more, however small a part it might be. I think out of self-respect to itself it would demand to pay a certain fraction. I do not say a large one, but I say a certain fraction should be paid by the employee, a certain fraction by the employer, and a certain fraction by the Government.

THE COMMISSIONER: Mr. Doggett, do you not look just at one side of that question? Undoubtedly the workingman to the extent that he is a consumer would pay a proportion of the cost, but so would the manufacturer. Besides paying the tax he would be probably a larger consumer than the employee, and he would pay as a consumer just in the same way that the employee does. Does not that strike you as reasonable?

MR. DOGGETT: Yes, but your Lordship, the number of manufacturers as consumers are a very small percentage.

THE COMMISSIONER: That does not make any difference. To each man it would be the same. Upon the hypothesis that we are discussing the matter, he would have added the burden of this tax. You are a carpenter. Now, the master builder pays a tax. For everything he buys from the furniture man, or any other thing that is manufactured, he has to pay his proportion of the tax, just the same as the workingman. That argument does not impress me. I think you want to look a little further before you conclude that it would be unjust for that reason.

MR. DOGGETT: Yes, but your Lordship, why should not the worker at the present time pay towards fire insurance individually?

THE COMMISSIONER: That is a different proposition, because the fire insurance does not help him, and this scheme helps the employee. The fire insurance only helps the employer. I do not think that is analogous. I am not expressing any opinion as to whether it is right that the employees should pay any proportion of the tax, but it strikes me that the argument that was suggested yesterday, and that you have repeated, is unsound. Just think that over.

MR. DOGGETT: I fail to see yet where the workmen make a direct contribution. I admit there is a waiting period under certain acts.

THE COMMISSIONER: We will discount Mr. Wegenast's figures. There is a million dollars to be raised every year by a tax upon industry to meet the accidents that happen. The employer contributes to that tax, and the workman contributes to that tax. Now, when they come to go into the market to buy what they want of a manufactured article the employer pays his portion over again just as much as the workman does. Does it not strike you that way?

MR. DOGGETT: Yes, I recognize that fact, your Lordship.

MR. RANSFORD: Might I say one thing more before I go which occurs to me in connection with what Mr. Doggett has said. The matter was brought up yesterday, how is the employer to reimburse himself for what he will have to pay under this proposed scheme, and the idea was mooted that he could increase the price of his manufactured article, and the public eventually would have to pay it. Well, while that might be the case in connection with some products of manufacture, I venture as a manufacturer to say it would be an impossibility with regard to all. I am confident beyond a doubt that, with regard to the pro-

duct that I manufacture, I would not be able to enhance the value of my manufactured product one iota, and consequently, although I favour this scheme, I wish to call the attention of my friends to this fact, that I am favouring this scheme with the knowledge that it is at the loss and expense of my own individual pocket. I am willing to do this because I consider it is nothing but fair and just between man and man, and under no other consideration do I favour it for a moment. I am gladly willing to put my hand in my pocket and pay that extra tax, for the repayment of which I look around me in vain for any source of repayment, save and excepting the consolation to my mind that I have done what is right, and I have done something to introduce a better condition and better feeling between employer and employee.

Mr. Wegenast: I do not know that it is necessary for me to say anything by way of introducing Mr. Boyd, except to refer to our attitude in the matter. My attention was first called to Mr. Boyd's name in connection with the report of the hearings before the Federal Commission. I subsequently obtained copies of the reports and the Bill from Ohio, and entered into correspondence with Mr. Boyd, with the result that I asked and he consented to appear before your Lordship in connection with this enquiry. We are bringing Mr. Boyd here in one sense as an expert witness, but not an expert in the character which is common in our courts. We have not brought Mr. Boyd to advocate any particular phase of the question, or to advocate any particular side. We are here to learn from Mr. Boyd just as much as anybody else, but I thought myself, and the committee under whose instructions I am working thought it would be of interest and profit to have a man of Mr. Boyd's experience and capacity to discuss with us these questions before your Lordship. It is Mr. Boyd's misfortune that he is a citizen of the United States, but the questions which arise in the different jurisdictions of the United States are very similar to the questions arising here, with this exception, that we eliminate the constitutional phase which forms so large a factor in the consideration of the subject in the United States. I do not think it is necessary for me to say anything more by way of introducing Mr. Boyd of the Ohio Commission.

Mr. James Harrington Boyd, (Toledo, Ohio): I may first say, your Lordship, that the sources of information of which I shall give a brief review will be found published by me in the following publications: In the first place in the report of the Employers' Liability Commission of Ohio, of which I was Chairman, parts 1, 2, and 3; in the second place in the *Magazine World*, under date of July, 1911: in the third place in the *Annals of the American Academy of Political and Social Science* of the United States for July, 1911; in the fourth place in the *American Journal of Sociology* for January, 1912; and in the fifth instance in the record of the Employers' Liability and Workmen's Compensation Commission of the United States, page 718.

Now, your Lordship, I want to point out the fact generally that there is no paradox in this investigation and the laws that were finally passed in Ohio, and so I will mention these points as I go along. A republican legislature in the spring of 1910 authorized the Governor to appoint a Commission consisting of five individuals, two employers, two representatives of labour organizations and one neutral person, lawyer or otherwise. The Governor appointed on that commission in June, 1910, two representatives of labour: two representatives of employers, and myself. We began our investigations in July, 1910, and I conducted twenty-seven public hearings in different parts of the State, notably in Dayton, Cincinnati, Cleveland,

Toledo, Youngstown and Columbus. We also operated with the Commission of Massachusetts and other States in bringing about a conference of all the liability commissions of the United States, nine in all, including the National Commission, and the Commissioner of Labour, Mr. Neill, and we had conferences at eight sessions in Chicago in November, 1910. If your Lordship does not have a copy of the report of that conference I shall be delighted to make you a present of one. To my mind that is the most remarkable hearing that has been held on this question on this continent. Now, we met together there in Chicago—the Commissions for Massachusetts, Connecticut, New Jersey, Ohio, Illinois, Wisconsin, Montana, Washington, and the United States Commission, and the Commissioner of Labour for the United States. Everybody was intensely interested. For example Mr. Dixon, who was President of the United States Steel Corporation thought he would take a look in at us, and possibly go home in the evening, and before we got to the middle of the afternoon he was using the long distance telephone to New York cancelling all appointments, and during the eight hearings of two or three hours each there wasn't a single man left the room from the time he entered until the close of those eight hearings. We closed our hearings on December 1st, 1910. Then we had December, January, February, and March of 1911 in which to write the report and draft a Bill and get it into the legislature, and whip it through the legislature, and finally we got it through in June, 1911.

Now, these investigations of which I shall give a résumé can be put in, and then with your Lordship's permission, at the close we will ask the stenographer to put in this brief which contains a concise résumé of all the historical and economic investigations that have been made up to the time of the writing of the brief, with footnotes showing the sources of information. This brief was used by me as special counsel for the State before the Supreme Court in 1911 in contesting the constitutionality of the Ohio Act, about which I shall explain in the course of my talk. Now, as to the manner of procedure in going into this proposition—we recognize from the start that it was a question of abandoning an old remedy more than one hundred years of age, and the establishment of a new remedy entirely different in its nature, and therefore it would require all the fundamental and economic facts gathered together to justify the courts in substantiating a new remedy in place of the old remedy, because in the end, whether the form of our Government is republic, democratic, limited or absolute monarchy, the remedy itself must be based upon the solid economic facts, in order to mete out Christian justice.

Now, first a brief résumé of the historical evolution of the problem. In 1837, Priestly v. Fowler decided by Lord Abinger in England, the fellow-servant rule was introduced. That was a case where a butcher had an assistant butcher, and through the negligence of the boy driving the waggon the assistant butcher was seriously injured. Then it was for the lord to determine whether it would be most just in the course of time, and at that time, to introduce the rule to make the employer liable for the negligence of the fellow-servant, or to allow the injured person to bear the hardship. Now, I lay particular stress upon the principle as Lord Abinger discussed it in that case, for the particular reason that later in my remarks I shall call attention to the fact as to why, in my opinion, looking at it as a scientific investigator, regardless of what political parties may think, the insurance principle is the only principle whereby you can protect the small employer and furnish the workmen of the small employer the same protection at the same cost that, for example, the International Harvester Company or the United States Steel Corporation can furnish compensation to its injured workmen. So his Lordship held that it would be most just not to burden the employer with that liability.

In Ohio 50 per cent. of our employers employ less than twenty men, and it is the hope of every workman that he ultimately will become an employer, and his total capital may be $1,000, $2,000, $5,000 or $10,000. If he can insure himself against liability by paying his *pro rata* share and protect himself, and furnish his workmen the same protection that the United States Steel Corporation has, that is what he wants.

In 1838 Prussia abolished not only the fellow-servant rule, but also introduced the rule of the assumption of risk by all railroad employers. In 1842 Justice Shaw, of Massachusetts, introduced the rule of the assumption of risk, after Prussia abolished it. Now, the social philosophers, beginning with Fichte in 1790, and Marx, Sismondi, Winkleblech, Schmoller, and Wagner—all these social philosophers kept up the constant agitation that owing to the evolution of manufacturing industries the State owed a greater duty as to the protection of the weak as against the strong. So that Prussia in 1854 made it obligatory upon employers who had among his employees members of a mutual employees association (and they existed at that time), to contribute half of the cost of their benefits. That continued in operation until 1869 when that rule was relaxed. Then in 1871 Prussia took away all the common law defences in all mining operations, and in 1880, your Lordship, the first English Liability laws were introduced in England with the object of tending to modifying the rigours of the defences of the common law. Then came Asquith's Bill in 1893, modifying the rigours of the common employment rules. Then came Chamberlain's Act in 1898, the first English Compensation Act, which makes the employer personally liable, with the hope that he will insure against that liability, without regard to negligence on the part of the employer or on the part of the employee, except as to malicious negligence on the part of both. Then came the modifying Act in 1906, and finally the Lloyd-George Act a few weeks ago, and I understand, your Lordship, that is the law now in England. That act covers insurance against sickness, accident, old age, and out of work. The employer contributes one-third to the cost of the fund, the employees one-third, and the State one-third. I will not venture to state what has happened in the Dominion of Canada, but in the United States during the last ten years, and particularly during the last five years, various states have been modifying these common law defences, one state cutting out one and another cutting out two, and some modifying all three. For example, three years ago in Ohio we passed what is called the Norris Bill modifying all three common law defences. So that historically the evolution is to get rid of and eliminate the common law defences and the common law remedies all over the world.

Now, as to the statistical investigations in the United States. Beginning first with Germany prior to the passing of the German Insurance Act, which all European countries adopted in more or less modified form, I want to call your Lordship's attention to this, that in Bismarck's debates in the Reichstag he did not ask Tom, Dick and Harry to debate it, he debated it himself, and he said he regarded it as his calling that this act should be made a law. I give your Lordship in this brief among the historical statements the Emperor's speech which formulates the problem from their standpoint. In New York State the investigations of the New York commission showed two facts, that while the liability insurance companies collected about $24,000,000 they paid out about $8,000,000, and that where there were 414,000 notices of accidents they paid something or other in about 52,000 of the accidents, or in other words paid something or other in one-twelfth of the accidents, or in 12 per cent. of the accidents.

Take the State of Illinois where they spent a large sum of money in making their investigation. They found they paid something or other in 8 per cent. of the accidents. In Ohio they spent $16,000 or $18,000 investigating all the accidents in Cuyahoga County during five years prior to 1910, and Mr. Wilson, Manager of the Ætna Insurance Company in Cleveland testified to having settled 65,800 cases, and in paying something or other in six per cent. of the cases, and the Russell-Sage Foundation investigated all the accidents in Alleghany county, Pennsylvania, during the years 1906 and 1907, showing something or other was paid in about ten per cent. of the cases, so that something or other is paid according to those vast investigations in from six to twelve per cent. of the cases; and experience in Germany shows, as the German economists pointed out, prior to the passing of the German Act, they paid something or other in ten per cent. of the cases. So you see that is practically an average of our experience here. When I had to face the legislature, with the vast number of prominent lawyers, and then finally the Supreme Court itself, with an array of attorneys, such as H. and M. Johnston,, of Cleveland, and Kline & Stone, the Standard Oil attorneys, and the attorneys for the Norfolk Railroad company, and several other attorneys, we had to have the facts, which I think are clearly established in my investigation and pointed out there. In making a résumé of the operations of the German Act we had the statistics which, your Lordship, were statistics they had kept not for the purpose for which I used them, but for the purpose of guarding against accidents and to find in what respects the employer might avoid accidents, how he might help to reduce accidents, and in what respect the employee might be required, and new duties imposed upon him, to reduce the number of accidents, and on the part of the State to reduce the number of accidents. But taking a résumé of those annual reports I wish to point out the following fundamental economic results, which to my mind enabled me to convince the legislature of the State of Ohio that we must abandon—I say *abandon*—the common law remedy, for the basis of procuring compensation for injured workmen. The German Act in 1887 covered over 3,000,000 employees; in 1907 it covered over 27,000,000 employees. Taking the decades, 1887, 1897 and 1907, where they have millions of accidents under consideration, the causes of accidents due to the natural hazard of the business, leaving out the employee's conduct and the employer's conduct wholly, was 44.96 in 1887, and in 1897, your Lordship, after the agricultural labourers came in, which took in about 8,000,000 workmen, the cause of accidents attributable to natural causes of the business was 42.82 per cent., although there were millions more workmen. In 1907 when there were 27,000,000 of workmen under the act, and their dependants, the causes of accidents due to the natural hazard was 44.35 per cent., practically a constant factor of 44 per cent. The percentage of accidents due to the combined negligence of employer and employee, which to be sure by creating care on the part of the employer and employee can be slightly reduced, is ten per cent. of all the accidents. Adding that to your 44 per cent. and you have 54 per cent. of all your accidents caused or due to the unavoidable risks of the business, and cannot be but slightly changed. For example, it would not make any difference how careful the State was, or how careful the employer might be required to be, or the employee might be required to be, about 53 per cent. of all the accidents that will occur is due to the unavoidable risks of the business. You can reduce, of course, the number of accidents that will occur among your thousand foundry men by the inauguration of schemes for the prevention of accidents which have been so highly developed in Germany,

but about 52 per cent. or 53 per cent. of all those that happen are due to the unavoidable risk of the business. Now, the percentage of the accidents due to the negligence of the employer is 18, taking the average for the three decades, or 18.4 per cent. The percentage due to the negligence of the employee is 28.4 per cent. Now, for the 28.4 per cent. he cannot recover because of his negligence under the common law, because that is a defence as a rule. That only leaves 18 per cent. He must first prove his employer is negligent, and he can only do that in 18 per cent. of the cases. The percentage that is due to the negligence of the fellow-servant of those is 6 per cent. and take that away from the 18 per cent. and it is 12 per cent., or 12.91 per cent. only in which the employee theoretically has a cause of action. Now, what is the difference to the dependants of the man who is killed whether his negligence caused the accident or not? The reason that the Prussian Government and the German Empire inaugurated industrial insurance was to provide that under no circumstances would the dependants of a workman injured suffer in this respect, that his development should not be interfered with until he was enabled to support himself or herself. This is the fundamental basis of workmen's compensation or industrial insurance.

Now, I would like to say a little about the number of accidents. The lowest estimate of accidents to workmen in the way of bodily injury in the United States, where we will say the population was 90,000,000 when we made our investigation in 1910, was 1,536,000 people injured, maimed and killed in one year. In the battle of Gettysburg there were 43,500 soldiers killed, wounded and missing in that three days' battle, but you would have to have one of those every month in some part or other of the United States in order to create the same havoc; but if we are as careful as Germany is—they have a million accidents among 63,000,000 of people—if the people are no more careful in the United States than in Germany we would have one million and a half instead of 1,536,000. Now, if I can buy a thousand dollar insurance policy, the laws of our State provide a protection for that fund, and prescribe the nature of the contract which the life insurance company must make in order that they may be permitted to come into the State of Ohio and even write insurance. Now, I take all kinds of business, from the poorest to the richest people, and I have in my office three policies, where a woman insured her mother against funeral expenses at the age of 60, and has paid 25 cents a week for seventeen and one-half years, or $230, and the Western and Southern Life Insurance Company of Cincinnati say they will pay her in settlement of that policy $50. Now, the State of Ohio, among other States of the United States furnishes the workingman a means whereby by paying a small amount of premium he can protect himself or herself in instances of that kind against a small competency for funeral expenses or disability and old age.

The careful marshalling of the facts, and they are more fully set out in this brief which will appear in your record, was sufficient to convince the legislature of the State of Ohio that we must abandon the old common law remedy at least in accidents of bodily injuries. Then came the question, "What is your remedy; what are you going to put in place of it?" In my brief likewise I have stated under five propositions a brief résumé of what the act contains, and I will present your Lordship with a copy of the Bill, which the reporter will be so kind as to insert either as an appendix to the brief or an introduction to the brief, just as he sees fit. Our Bill provides in the first place that in case of death the workman shall receive from $1,500 to $3,400, based upon 66 2-3 per cent. of the average weekly wage, and doctors' bills and funeral expenses not to exceed $150. That is to say in no case is it less than $5 a week for 300 weeks, and in no instance more

than $12 a week for 300 weeks. There was a slight compromise, your Lordship. 300 times $12 would be $3,600, but it was reduced to $3,400 in the conflict at the discussions in the Commission. Now, total disability runs as long as it lasts, and not more than $12 a week, or 66 2-3 per cent. of the average weekly wages, which generally is an enormous compensation.

MR. WEGENAST: May I ask, Mr. Boyd, whether the clauses are limited to which this act applies, with reference to the salary that a man earns?

MR. BOYD: It is limited in the compensation.

MR. WEGENAST: Only in the compensation?

MR. BOYD: That is right. It applies to all employees, including the employees of the state, counties, cities, and school districts of the townships. Everybody is in there but those who employ four or less.

In partial injuries the compensation is 66 2-3 per cent. of the loss of earning power, and doctors' bills not to exceed $150, to run for 300 weeks, but in no instance more than $12 a week, nor more than $3,400. The act provides for a period of seven days there shall be no compensation at all except doctors' bills.

MR. WEGENAST: May I ask, Mr. Boyd, whether in limiting the total amount of compensation to $3,400 you fix a period of time at which the payments on the basis of 66 2-3 per cent. shall cease, or whether you reduce the percentage? What I mean is, suppose a young man is injured. He gets 66 2-3 per cent. of his wages and it will not take many years before the $3,400 is eaten up. What happens then? How do you work out that feature?

MR. BOYD: Well, his compensation shall in no instance, except in total disability, be more than $3,400. It is paid monthly.

MR. WEGENAST: And when the $3,400 is reached then the payments end?

MR. BOYD: Yes. Now, as to the case of a lump sum payment, it is within the discretion of the Board to say whether it would be most wise in a particular case that a part or all of this compensation may be paid at once—be commuted. For example a man might be killed or totally disabled and may have a mortgage on a small house, and instead of allowing that to become foreclosed they would commute sufficient of his compensation to pay that off. Otherwise he gets his compensation, or his dependants get the compensation, in monthly payments.

So then we have a provision for partial injuries and total disability and death cases; we have a waiting period of seven days: it is based upon 66 2-3 per cent. of the loss of earnings; the payments are made monthly and can be commuted in special cases at the wisdom of the Board; and the workman can not assign or transfer his interest in the fund.

Now then, we wished to accomplish first of all two things. One was to take this two-thirds of all this money that it had cost the employers through liability insurance and the hiring of attorneys to defend these personal injury suits—we wanted all that to go into the fund. Then we wanted all that the workmen had spent in hiring lawyers, that in these investigations as you will see never is less than 25 per cent. and often 50 per cent., and more, of what he gets, to go to the fund. For example in the New York investigations, and in our investigations in Cuyahoga County, and in Alleghany County, Pennsylvania, it was shown that while on the average about 6 to 12 per cent. of the people injured got something—take for example the married persons in Cuyahoga county, 42 per cent. only got something, and 58 per cent. got nothing; of the single men, 25 per cent. got something and 75 per cent. got nothing—while on the average they got something in 36 per

cent. of the cases, but it averaged only $835 in fatal cases, among those who got something in the 36 per cent. Then of that 25 per cent. at least must go to the lawyers, and there is the delay and the borrowing of money from Tom, Dick and Harry until a settlement of some kind or other is made. So that summing the whole thing up of that 6 to 12 per cent. that get something, on the average it is one-fifth of what any man or any person would consider, your Lordship, as adequate compensation in those cases. So that is no remedy at all. That is what I told the legislature, and presented to them what I thought was proof that it was no compensation at all.

Now, first of all we desired the remedy to provide that all this waste should go into the fund and that the workmen should get it all. We had twenty-seven hearings, and sometimes there were a thousand, five hundred, two hundred, fifty people present, and when the labour leaders read a paper or when the employers read a paper everybody joined in. We did not have any experts. We just invited everybody to come in and tell us all they knew about it, but it wasn't a preaching proposition, gentlemen. When they got through I cross-examined till I got all I thought of out of them, and then the other members of the Commission examined, and then anybody in the room, as this record will show, asked any question he saw fit of the speaker pertinent to the issue, and so it was all threshed out.

The employers were unanimous, and so were the labour leaders, that we should get rid of the old remedy, and after we had got our act completely drafted except as to two propositions, every member of the Commission voted unanimously for every provision in the act—with as I say two exceptions. The labour leaders did not want the employee to contribute. They did demand at first that the employee should have the right to take the compensation or sue—but up to that time everybody admitted that an insurance fund was the thing to have. We wanted to get rid of the contention between the employee and the employer, and that is the only way, gentlemen, you can get it. And mind you, the employer is willing to pay a good deal of money to get rid of that contention. It is no profit either to the employee to have the contention. Now then, I first demonstrated to my satisfaction and to the satisfaction of the legislature, and finally to the satisfaction of the Supreme Court, that whether you have an insurance proposition or not depends on whether you have a definite liability to insure against. In fire insurance you have. You go out and determine the value of your house; you determine the hazard; the circumstances and the surroundings in which it is situated, and then you can fix your premium, and the owner can pay his *pro rata* share of the fund to insure that house.

The very moment you can determine the liability under any industrial insurance act or workmen's compensation act then you can say the premium is so much, but if you cannot do that you cannot fix any premium at all. In New York State they passed an act, and by the way Chairman Wainwright wrote me that he was always in favour of an insurance act, but they were afraid to take the stand. I can produce his correspondence to prove it. The New York Act provided the workman might take his compensation under the Compensation Act, and it would be obligatory upon the employer to pay the award that might be made against him, regardless of negligence on the part of the employer or employee, except malicious negligence, or he might file his petition in court, but the employer would not know which was going to happen until the workman decided to do one or the other. Now, I contend that the New York Supreme Court was wise, especially from the standpoint of protection of the workmen, in getting the wisest

remedy at the start. It would be a terrible thing to inaugurate in the State of New York with ten million people and with its enormous number of workmen, a wrong scheme, and then try to shift from the wrong scheme to the right scheme.

As to the other proposition. why should the employee contribute? In the first place the workingmen had agreed on our Commission that total disability should only run for 300 weeks. The employers of the State of Ohio were unanimously of the opinion that at the start at any rate they wanted the employee to contribute, and to be a party to the fund, even though it be a very small amount. So we finally decided to make him a party to the fund, and they insisted upon his paying 25 per cent. Then I said to them you must then make the total disability run as long as it will last, and after weeks of contention about that particular point they said all right. Of course it was left for the legislature to say whether it should be 25 per cent. or something less.

Now then, under the German Act, your Lordship will understand the sick insurance runs for thirteen weeks, and therefore it is sickness whether it is an injury or sickness. After the thirteen weeks it is an accident. During the thirteen weeks the employee contributes two-thirds of the sick fund, and the employer one-third. After the thirteen weeks the employer contributes it all. In the old age insurance the workmen contribute half, the employers half, and the State fifty marks in each individual case insured. I understand, your Lordship, that your act will consider first of all personal injuries, not sickness nor old age. That is the way ours is drawn. No matter how desirous you might be to inaugurate sickness and old age insurance it would be practically an impossibility to launch it all at one time, and even Germany did not attempt it, where they have got everything to facilitate it, where everything is bookkeeping. Why, if I were in Berlin all I would have to do would be to go right down to the police office, if you were a workman and I wanted to find you, and find you in twelve hours. So even with their bookkeeping scheme of running a Government they did not attempt anything but accident insurance at the start. Then in a couple of years they put in the sickness, and a couple of years more the old age insurance. It was longer than that before they put in the old age insurance, but they put in the agricultural labourers about four years after the accident insurance. Figure out the operation of the German Act and you will find that the workmen contribute to the bodily injury insurance—that is to say personal injury insurance—about 16 2-3 per cent., or about one-seventh of the fund.

THE COMMISSIONER: That is by these thirteen weeks?

MR. BOYD: Yes, some of the injuries being in the thirteen weeks.

MR. BANCROFT: But there is no direct contribution in the legislation?

THE COMMISSIONER: So far as the employer is concerned he pays it all.

MR. BOYD: But for those thirteen weeks the employer does not pay it all. Supposing a man gets his leg cut off it is sickness for thirteen weeks, or in the case of occupational disease, or if he was really sick or got sick while he was employed, it would be sickness. So there is some bodily injury compensation in that thirteen weeks, and figuring that up the workmen will pay under the German Act about 16 or 17 per cent.

In Ohio the legislature drove it down to 10 per cent. The employer pays 90 per cent., and he is authorized by the act to deduct 10 per cent. of what he pays from the pay-roll, and the State pays the entire cost of administration. That is not so in Germany, but I thought we would be justified in that on account of the enormous expense which the State of Ohio is now put to. Any man can file a

personal injury suit and he does not have to put up any security for costs. He can have a jury for four or five days or a week, and lose his case, and it does not cost him anything in court costs. He can come in and make an affidavit and say he cannot pay it, that he has not more than $500, and the State has to pay it. There are the summonses of witnesses, sheriff's fees, and the clerk, and the juryman, and the judge. Why, the State will be making money by this scheme. The State must spend $300,000 or $400,000 or $500,000 in that kind of expenses, and the estimate of the first annual expenditure under this Act is $100,000. I think it will be more than that.

I think that other points can be brought out perhaps better by your asking the questions, or some gentleman present asking questions.

However, I will direct my attention for a few minutes to some principles of jurisprudence. I understand, your Lordship, that there is no question here as that an act might be unconstitutional if passed by the Province of Ontario, or by the Dominion Parliament. There is, I believe, what is called a veto power residing in the Dominion Parliament and also in His Majesty the King, which is seldom used.

Now, gentlemen, it only required industry and honesty and a reasonable amount of brains to make the investigation of facts and bring them together, but when it came to the questions of legal justification of abandonment of the old act, where a great many of the legal profession were interested in making a living by defending personal injury suits, and where we had in the Judiciary Committee often fifteen liability insurance companies lined up around the wall trying to make all the trouble they could for us when getting the Judiciary Committee to O.K. our Bill, and they had clever attorneys to look after their interests, that was the hard part of the proposition.

I wish to direct your Lordship's attention to a few basal decisions which I think are equally applicable in the Province of Ontario. In Munn v. Illinois, 94 U. S. Supreme Court Reports—that case I regard as the ablest case ever written by any judge of our Supreme Court, notwithstanding the opinions written by Chief Justice Marshall. I may be mistaken. That was a case in which the legislature sought to limit the amount that grain elevators might charge. It fixed a maximum rate. That was in 1876. At that time Illinois became a great grain producing country, so the legislature, in order to limit the abuses, passed a law. They had no corn cribs to store the grain, and possibly the farmer might produce ten thousand bushels of grain and might want to haul it in at once, and everybody else might want to do the same thing, and when it came to a critical time in the fall they began to jockey the rates so high to make all the money they could out of the public, and the legislature said, We will limit that, we will fix a limit beyond which you cannot go in charging rates for storing grain. Now, in that case Chief Justice Waite goes back into English history and refers to English decisions. You will get that in the records, showing that when a man uses his property in such a way as to create a public interest then it is within the police power of the State to regulate the matter. Now, in the economic evolution of our country, that is the first instance of the extraordinary use of the police power in that respect. Then we come to the development of the mining business in Colorado and Idaho, when the handling of the mines was done by smelters, and Idaho passed an act limiting the hours they might require a man to work, even voluntarily. It simply prohibited smelters from employing any man, whether he wanted to work or not, more than eight hours, or underground in the mines more than eight hours,

and placed not only a money fine, but a penal sentence, and an employer in this case was sentenced to one or two years, and the Supreme Court sustained the act. There is another feature of the economic evolution of our country, and it is true of this country of Canada as well as our own, as is also the grain proposition. Then comes the third economic evolution as shown by the evolution of our principles of jurisprudence. That was when there were the great discoveries of oil and gas. There was the Ohio Oil Company v. Indiana, 177 U. S., and the Idaho case is Gordon v. Hardy, 169 U. S. In the Ohio Oil Company v. Indiana, the court first laid down a proposition that it was the law of Indiana that when the owner of the land drilled a hole and struck gas or struck oil, the oil or gas was not his property, the title was not in him until he reduced it to his possession. If that man who owns that land digs a hole and strikes gas and allows it to escape, then the act says, We will fine you so much if you do that, because the gas has the natural capacity of moving itself from place to place, so that this gas that he allows to go to waste might come from under his neighbour's land, but so long as he uses it and reduces it to his possession and sells it to the public then it is his property, but when he did not it was an abuse of the public's right by his not doing so. Now, then, we have first an exhaustive definition of police power for the regulation of the manner in which a man may conduct his business, shown by the elevator case, the smelter case and the oil case. Then comes the Oklahoma Bank case, and I would only touch upon one feature that may be of interest here, and that is the Oklahoma Act provided that every bank should be required to put one per cent. of its deposits into a fund, that fund to be administered by a Board for a guarantee that every depositor of a bank, in case the bank fails, should be paid in full, and authorized that Board to take possession of the property of the bank and take the money from the fund and pay off the depositors and settle up the affairs of the bank, and put the money back into the fund.

For our purposes there were three other interesting lines of cases on which this act is based. One of them, your Lordship, I think you must have here, what is called the sheep-dog law. In all the States of the United States where sheep are raised they have a law where every man that owns a dog must pay a tax of $1 or $2 into a fund, and in case sheep are killed they send out appraisers, and the appraisers issue an order and pay the damages out of this fund. Now, that involves the same principle as the administration of this industrial insurance fund. Then there is another line of cases such as in Illinois and Wisconsin, where a fire insurance company coming into Illinois and doing business, in Chicago, for instance, when he writes a policy he must take a part of that premium and pay it into a fund, and the fund is to be used for the compensation of the dependants of firemen injured or killed in performing their duties as firemen. Then there is another very interesting line of cases in connection with the whiskey traffic. That is a Minnesota case, Minnesota v. Cassidy, 22 Minn., where the State requires that every man going into the saloon business should pay a certain license. After he has taken out his license and paid for his license, they say, "you must pay $10 more," and this goes into a fund to be administered by the Board to build a sanitarium and furnish such medical attendance as necessary to rejuvenate such persons as have become confirmed drunkards.

Now, your Lordship, I think I have given you a résumé of the investigations which we made in connection with the Ohio Act, and I think possibly any further points could be best brought out by asking questions.

MR. WEGENAST: I have nothing in particular to ask, but I thought I might

ask Mr. Boyd whether the question was considered by them as to what form the contribution by the workmen should take. That is, whether it should be a money contribution, or take the form of a waiting period during which the burden of compensation would rest upon the workmen.

MR. BOYD: Both. There was no opposition on the part of the workmen that a reasonable waiting period should be provided for. The act provides for a seven days' waiting period, and they all agreed that that was a reasonable provision. There was no objection to that whatsoever. For instance, page 2 of that report shows that. In addition to that, for the purpose of having the workmen interested in it and watching other workmen so that they may be more careful, and may report on them if they weren't careful and making the fund cost more (for the more accidents the more the fund would cost), the workmen ought to make some kind of contribution. That is the line of argument that seemed to prevail. Our act, for example, provides that the actuary specifies the employment and fixes the premium. The premium is fixed by the hazard, and the amount of the premium will be determined by the amount of pay-roll. When an employer has paid his premium he takes up the pay-roll and deducts ten per cent. of that from the pay-roll, pro rating to the amount of wages that each individual had earned.

MR. WEGENAST: Every three months, is it?

MR. BOYD: Every six months, I think.

MR. WEGENAST: What I was thinking of, Mr. Boyd, was not a waiting period of one week, because a period of one or two weeks is recognized as a necessity in all systems, but a longer waiting period of thirteen weeks, as it is under the German system, or say four weeks as it is under some other systems. Was the question considered whether the workmen's contribution should take that form rather than the money contribution?

MR. BOYD: That was discussed to a limited extent. For example, the percentage of accidents which lasts only a week constitutes the enormous total sum of 49 per cent of all the accidents. Take Germany's millions of workers, and the accidents that occurred in year 1908, 49 per cent. of them did not last over seven days.

THE COMMISSIONER: But what Mr. Wegenast asked would not be applicable to your act at all. You have no invalidity insurance as they have in Germany, which provides for that thirteen weeks. The sickness fund provides for the thirteen weeks, half contributed by the employer and half by the employee.

MR. BOYD: Yes.

THE COMMISSIONER: So that that feature not being in your act, it would follow that that contribution would not be applicable at all.

MR. WEGENAST: This is the principle upon which Mr. Chamberlain put it, that the workmen could be expected to take care of this. He is not presumed to be entirely indigent, but he could be expected to take care of that period, whatever it might be, himself, and thus bear a portion of the cost of the compensation.

MR. BOYD: I was just coming up to the point. Suppose you extend that waiting period two weeks instead of one week, look at the enormous number of accidents that that would cover. The fundamental principle of the waiting period is not for the purpose of depriving workmen of compensation, but to be sure and have a reasonable waiting period so that the abuses of the inauguration of the act would not defeat the act.

MR. BANCROFT: To stop malingering.

MR. BOYD: That is for the workman's own protection. The workman has

found that out in a century of operation of mutual associations of various kinds, sickness and accidents and all kinds.

THE COMMISSIONER: Did you figure out, Mr. Boyd, what that week of waiting would mean, what contribution from the workmen that would involve, because that would represent so much money. Is that not a contribution by the workmen?

MR. BOYD: I had that at one time precisely. It figures 49 per cent. of the accidents. Your Lordship wishes to know what the monetary consideration would be?

THE COMMISSIONER: Yes.

MR. BOYD: I cannot answer that precisely. I can give you some very close idea with regard to the thirteen weeks. and that will shape it a little. I can give you the precise figures for the thirteen weeks. Now, take the cost of the German Act for twenty years ending 1904, for sick insurance, accident insurance and old age insurance. That total cost was $803,000.000. Of that $803,000,000, $555,750,000 was paid on account of sick insurance. First divide it up that way. Then the accident insurance which runs after that thirteen weeks was $232,750,000, and the old age insurance was $13,500,000. Now, going back, the employees paid, on account of paying two-thirds of the sick insurance and half of the old age insurance, which would be only about $6,000,000, $424,500,000. Now, you deduct the $6,000,000 that he paid in the old age, and you have $418,000,000 that he paid for sickness insurance by paying the two-thirds of the thirteen weeks.

MR. WEGENAST: That would include, however, Mr. Boyd, real sickness, as well as occupational diseases and accidents?

MR. BOYD: Yes, it includes everything.

MR. WEGENAST: You would have to divide it.

MR. BOYD: I admit that does not quite reach it. His Lordship wants to know what the monetary consideration during one week would represent?

THE COMMISSIONER: Yes. It seems to me it would be a pretty large contribution. I should think it would not be unfair to assume that 75 per cent. of the accidents were real accidents and not malingering. Supposing you allow 25 per cent for malingering.

MR. BOYD: I can give you exact figures on that. It is a little more than one per cent. and a little less than two per cent.

MR. BANCROFT: I think that justifies what we have been claiming.

THE COMMISSIONER: Then does that not mean the workmen contribute that one week?

MR. BOYD: Yes, there is no question of that.

THE COMMISSIONER: Is that not a large contribution?

MR. BOYD: Yes, it is a large contribution.

MR. BANCROFT: In the Ohio legislation, Mr. Boyd, there is a waiting time of seven days?

MR. BOYD: Yes.

MR. BANCROFT: If the period of injury continues say into three weeks he is paid from the first day of the injury? The compensation is retroactive to the first day of the injury?

MR. BOYD: That is my memory of it.

MR. WEGENAST: So it would not be a seven days' waiting in all cases?

MR. BANCROFT: Where it was less than a week it would be.

MR. BOYD: Now, if an accident lasts only two days it costs as much to the State as one that would last for a long period.

MR. BRUCE: You mean for the procedure?

MR. BOYD: Yes.

MR. BANCROFT: You are familiar with the German system?

MR. BOYD: Yes.

MR. BANCROFT: You remember the first piece of legislation was the sickness and death insurance.

MR. BOYD: The so-called fundamental law of July 6th, 1884, for industry, transport trades, telegraph, army and navy; the "Agricultural Law" of May 5th, 1886, for agriculture and forestry; the "Building Law," July 11th, 1887, for building trades so far not insured; the "Marine Law," July 13th, 1887, for navigation. The Bill for sick insurance passed on May 31st, 1883, with a majority of 117 votes.

MR. BANCROFT: That was the first attention that Germany paid practically to social insurance, when they introduced the sick insurance?

MR. BOYD: That thirteen weeks?

MR. BANCROFT: That thirteen weeks was placed in the legislation. The sick insurance only covered about 13 weeks of illness at that time. After that they passed another piece of legislation for invalidity and old age, which was interwoven into the sick insurance, and the third piece of legislation was workmen's compensation.

MR. BOYD: You mean the personal injuries?

MR. BANCROFT: Yes, accident insurance. That was the last piece of legislation they passed, and they could not change the compensation legislation without interfering with the whole system of social insurance from the first day of a man's injuries. They had to interweave it into the system of social insurance, and they recognized the theory in workmen's compensation that the workmen should not directly contribute because the burden was on the employer. It was only because of the fact that the sick insurance was already in existence and was working well that they interwove the other piece of legislation into that, and put in that thirteen weeks.

MR. BOYD: Of course that thirteen weeks is based upon the fact, as I stated in the beginning, that they had mutual insurance associations for fifty or sixty years before that. So they simply brought that under a national Bill.

MR. BANCROFT: What I wanted to bring out particularly was that a direct contribution to workmen's compensation has not been recognized in Germany. It is only a matter of accident that the thirteen weeks was interwoven into the legislation, and then experts assume that thirteen weeks is the contribution of the workmen to workmen's compensation. In the legislation the whole burden is borne by the employer by a tax upon his industry.

MR. BOYD: You can scarcely put it that way. The actual fact is that the Bill for sick insurance required the employees to pay two-thirds and the employers one-third, and therefore it should be treated as sickness up to thirteen weeks. Now, in 1854 the Prussian Bill provided that the employers contribute half or contribute as much as the employees to the funds of associations whose members were their employees. So that German law recognizes the fact that they have made the workmen contribute.

MR. BANCROFT: But the sentiment has changed. In Europe now, I think there are only two acts where the workmen contribute, one is Switzerland and the other Austria, and the third act is the State of Ohio.

MR. BOYD: In the German Act he contributes.

MR. BANCROFT; Not directly.

THE COMMISSIONER: What difference does it make whether it is directly or indirectly?

MR. BOYD: It is directly in the German Act. He pays two-thirds of the cost of that sick insurance.

MR. BANCROFT: Only on an estimate. There are 52,000,000 workers in Europe who come under compensation legislation practically, who do not contribute. Why, Mr. Boyd, the argument that has been used here about Mr. Chamberlain, Mr. Chamberlain's idea on the subject had he been interested in the matter to-day would have undergone a complete change. His Compensation Bill has been changed completely twice since he gave vent to those opinions, and with the consent of his own party, his own people.

THE COMMISSIONER: We are getting away from the point. Mr. Bancroft is right that on the face of this insurance act there is no direct contribution. There is no certain percentage payable on the face of the German Act, but by reason of the contribution to the sick insurance under the provisions of the other act he does contribute directly.

MR. BOYD: I see the gentleman's point now, that there is no specific direct contribution with reference to the personal injury fund, but indirectly he does.

MR. WEGENAST: And consequently your act is reactionary in its tendency. It goes back to the principle which Mr. Bancroft thinks has been abandoned. That is the workmen contribute to the workmen's insurance.

MR. BANCROFT: We say the evidence is all to the contrary, the world wide evidence. Is there any other act in the States where they contribute, Mr. Boyd?

MR. WEGENAST: Mr. Bancroft considers your act very out of date in that particular feature.

MR. BANCROFT: No, I protest against Mr. Wegenast expressing my opinions. The workers do not consider the Ohio Act any such thing.

THE COMMISSIONER: Well, I suppose there is no doubt about this, if the workman contributes a percentage to the sickness fund and he gets nothing during the thirteen weeks if he meets with an accident, he does directly contribute to the accident, and that he pays into that fund in the case of an accident, as far as it is due to an accident.

MR. BOYD: Yes, your Lordship.

Now, Mr. Bancroft, of course the Ohio Act is the first Industrial Insurance Act ever brought into effect in English history. There is no question about that. The Chamberlain Act is not; there is not any insurance fund, and there is not any absolute guarantee that the employer will pay the award when it is made. They hope he will insure.

Now, the Washington Act defines 47 classes of hazardous employments. and then they repeal the common law remedy as affecting those 47 different classes of employment. We do not make any exception. I was determined to have the employees of the State Penitentiary. and the County and School districts and dry goods stores given the same right to be in as anybody else.

MR. BANCROFT: You are right.

MR. BOYD: There may not be as many injured per thousand in those different employments, but when a man is killed and the children are left it is just as bad as if it was in a railroad accident, or any other accident. His rate is less, and the liability should be distributed just the same.

I almost forgot this. but I want to point out that there are some very deep economic problems here. We would have to spend a day talking about a single proposition to do it justice. Will you explain to me why all the New

England employers, every last one of them, opposed the employees contributing? They would not have them in. They would have given anything to have them out. Then every one of the Ohio employers wanted them in.

THE COMMISSIONER: That is the cussedness of human nature.

MR. BOYD: Well, it would be pretty hard for a legislative agent to reconcile those two things.

MR. BANCROFT: I suppose the New England people recognized the fact, and I think you mentioned it earlier, that if the workmen did not contribute that the period of payment was only going to continue over 300 weeks, whereas the other consented that the payments should continue all a man's days, provided he contributed.

MR. BOYD: You see, Mr. Bancroft, we were in this position. We had to work night and day. I had to work nights and days and Sundays, for this reason, that we were having a Constitutional Convention which began the first of this month we will say. Then if you read these public hearings you will see a great number of lawyers, some of them with a big personal injury business, were making a big fight over the high constitutional passes that we would have to get over. I told them we weren't looking for the highest passes, but the lowest, and as a distinguished gentleman said, "I know a great many lawyers who can tell me what I can't do, but I want the lawyer to come to me and tell me what I can do." Now, I put that proposition. They had a conference in Springfield, Ohio, and they invited me over there on this final proposition as to whether the employees should contribute or not. After they got warmed up on it the Springfield people had a bunch of figures showing they ought to contribute 25 per cent. and the employers' and the Cleveland manufacturers' figures showed he ought to contribute 50 per cent. Then I wanted to know why the New England employers didn't want him in at all. Now, in order to get a Bill before the House so that in case there were any of these constitutional difficulties we would have the workmen and the employers together, and the State would have a Constitutional Convention to rectify it, and everything would have to be done to get the Bill out in the best shape it could be gotten out, so I finally conceded he should contribute 25 per cent. I advised them, however, to limit it to 16 per cent. and if they had done that they would have got it 16 per cent., but they asked too much in the opinion of the legislature, and got too little. Then we made them give us total disability as long as it lasted, and that is enormous compensation. Now, in the Washington Act all the compensations are limited to $4,000; none of them exceed $4,000. Just think of it. A man earns $20 a week, and two-thirds of $20 would be $13 and something. Then the limit is $12 a week.

MR. BANCROFT: Yes.

MR. BOYD: Not for 300 weeks, but for as long as he lives. The employers are willing to stand that if the workmen contribute something. They were conscientious about it. There is no piece of trickery about it. There is none of this Macnamara business about it. They were conscientious about it and that was the concession they made, total disability as long as it lasted, as long as the workmen contributed something or other, on the theory that two hundred workmen as against one employer watching the fund would be of great value in the protection of the fund.

Now, mark you, don't you be too optimistic about the abuses of the fund. There will be much more than you have any idea of, and that in the end will hurt nobody but the workmen. because the employers will all be in the same position, and I contend they will be able to charge it up to the cost of production. The same old arguments were made against import charges against the goods bought abroad.

I remember in one political campaign when I was a youngster my uncles were all Republicans, and they all contended that the exporter had to pay that tax, and seriously contended it; then they got round to contending that the importer had to pay it ultimately, and now they all concede that the consumer pays it.

MR. BANCROFT: Particularly the consumer.

MR. BOYD: Now, my position I think on the whole, under conditions there, is it would be best for the workmen to contribute where those compensations are large, but mind you your socialistic scholars do not contend that if the workmen should pay the entire cost of the fund that it would ultimately reduce his wages. They claim his wages would rise by that amount in a period of two. three. four or five years. It is the consumer that has got to pay it.

MR. BANCROET: Isn't that very fact breeding a whole lot of trouble in industry, the adjustment of that payment afterwards. There is a fundamental law that the workman must have the amount given to him that will give him an existence.

MR. BOYD: There is no question about that. The average workingman does not require much discussion to demonstrate that the average workingman in order to be reasonably efficient must have a reasonable subsistence. Now, the workingman who is more prudent than the average workingman will accumulate some capital, and the man that is less prudent than the average workingman never does and never can, unfortunately.

MR. HARRIS: With regard to the workmen contributing I understand the point Mr. Wegenast was getting at was whether it would be better. if he contributed at all, to contribute in money or contribute by a longer waiting period.

MR. BOYD: We will put it in another way.

MR. HARRIS: In a probationary period you only penalize the man with the accident, and in taking money weekly or monthly, or whatever it may be from all the workingmen, you penalize even the careful man.

MR. BOYD: Well, of course he is paying an insurance. Under the Ohio Act where a man is insured against total disability, an average man earning $2 a day or $12 a week. that would be $8 a week as long as he lived. He is making a small contribution towards that insurance.

THE COMMISSIONER: Especially in view of what Mr. Boyd has told us that over 50 per cent. of these accidents cannot be avoided.

MR. BOYD: That is as true as that the square of the hypothenuse of a right-angled triangle is equal to the sum of the squares of the other two sides.

MR. BANCROFT: Did you ever know of a case. or was it ever brought out in your investigations where one or more than one man ever wilfully injured himself to get compensation?

MR. BOYD: There never was any pointed out. We have statistics in Great Britain and European countries to show that there has been what has been decided to be or held to be malingering. between one and two per cent. That is, in cases of bodily injury.

MR. BANCROFT: That is they did not want to go back to work?

MR. BOYD: Malingering.

THE COMMISSIONER: You spoke about "malicious negligence." The British Act is "serious and wilful misconduct." The Washington Act is something else.

MR. WEGENAST: "Self-inflicted," or something like that.

THE COMMISSIONER: The cases where a man will inflict injury upon himself are a negligible quantity. The cases must be very few.

MR. BANCROFT: I think it is the same in the Washington Act as the British Act. We didn't see much difference in it.

MR. BOYD: I have the language of our Act here, "In case such injury has arisen from the wilful act of such employer" then he is allowed to sue if he wants to. I think the same language is used.

MR. BANCROFT: Is the man then allowed to sue under the common law?

MR. BOYD: Yes, but only in that particular case, and it was put in on the theory that it really belonged to the Factory and Workshop Inspection Act. It was one way of forcing the employer to guard the machinery.

MR. WEGENAST: If he sues under that can he come back under the compensation?

MR. BOYD: No, he surrenders the right.

THE COMMISSIONER: What about the employee?

MR. WEGENAST: It is section 6 in the Washington Act.

THE COMMISSIONER: That is a question of detail.

MR. BOYD: I am quite sure it is "wilfully causes the accident for the purpose of obtaining compensation." That is to make it really a criminal intent.

MR. BANCROFT: For instance in the British Act I think it was always on the same theory. It it is "wilful and serious misconduct."

MR. BOYD: We eliminated "serious," and said "wilfully causes the accident for the purpose of obtaining compensation."

THE COMMISSIONER: Yours apparently is very much narrower than the British Act.

MR. BANCROFT: If a man was convicted of that does that stop him from getting compensation, or does his family still get compensation? Supposing he is killed or permanently injured do they penalize him?

MR. BOYD: I would rather get the section and see the final form of it. It was intended to leave it like the German Act, that he lost his compensation unless the Board saw fit anyway to give it to him.

MR. DOGGETT: In what way is the present Act of Ohio administered? Is it by Commission or by Board of Arbitrators?

MR. BOYD: The act is administered by a Board of Awards whose members are paid so much a year, and they are vested with the sole authority to administer the Act according to the terms of the act. They are authorized to hire an actuary who shall classify the employments with reference to hazards, and fix the premiums. I shall send to your Lordship as soon as they are published the lists of premiums that the employers will pay under the Ohio Act. Then they are authorized to gather information from the employers of various kinds. Then they are authorized to receive the notices and to make the awards of compensation for injuries.

MR. BRUCE: Have they any authority to direct the employers to put up safety guards and such like, and to adopt safety protective measures?

MR. BOYD: We have that under the Factory Act.

MR. BRUCE: Not under the Board?

MR. BOYD: No. He has a right to sue.

MR. BANCROFT: That is considered a means of compelling the employer to keep his machinery in proper order.

MR. BOYD: Yes, but that was a compromise part of it. I thought that should be part of the Factory and Workshop Act.

MR. WEGENAST: Do you classify the industries according to hazard, or do you classify them according to the industry? For instance, would you put printers and silver-smiths in the same class, or say printers and carpenters, just because the

hazard seemed to be about the same, or do you classify them strictly according to the industries?

MR. BOYD: I have not been in the office down there. I had nothing to do with that. The act provides, and it is the intention of the act, that they shall be classified with reference to the hazard, and the rate fixed. The hazard determines the rate. Whether they would carry that out to the point of separation if it is a fact that there are a few different kinds of employment that have the same hazard, I don't know.

MR. WEGENAST: You don't know whether they divide them up?

MR. BOYD: I don't know about that. What will happen in Ohio is this. In the course of a year or two after this is well started then there will be an association of employers formed harmonizing with the provisions of the act, or the act harmonizing with the expected way in which the employers will organize, you understand,—I don't care which way you put it,—so that after a while any class of employers, *A, B, C,* etc., will begin to study the thing out, and *A* and *B* will not pay the same premiums. *A* and *B* will each pay the premium of the hazard which their experience has shown they create. If John Smith's hazard is raised during this year over what it was last year they raise his rate a little.

MR. WEGENAST: That is right inside the same class of industry?

MR. BOYD: Yes.

MR. WEGENAST: You would divide those engaged in wood-working into a number of classes according to the hazard?

MR. BOYD: We will say we have twenty-six employers in the foundry business. At the start they will all pay the same rate, what the operations of the liability insurance companies during the last twenty-five years have shown they ought to pay—make the best guess the actuary can make. Then after a while in the course of four or five years the employers in those twenty-six classes will say, Here now, we want this thing fixed so that the employer in whose business more accidents per hundred people employed in his business occur to pay a little more. In other words under the German Act every fellow pays in accordance with the amount he draws from the fund.

MR. WEGENAST: Do you consider that a better way of bringing home to each employer his own risk than throwing it on him individually as under the British Act?

MR. BOYD: Oh yes, I think it is much better.

MR. RANSFORD: That might be pure ill-luck, that condition of things. For instance we might all be in the foundry business and at the end of three years I might have had five very bad accidents and you none, but it might not be owing to any carelessness on my part.

MR. BOYD: Of course there is a small number of accidents that is called "act of God." Now, in this record presented here it gives all the classes and the sources of information are all given so that you can check it up. There is 18 per cent of the accidents due to the employer, 28.4 due to the employee, and 54 per cent due to natural risk.

THE COMMISSIONER: But that natural risk is common to all businesses.

MR. BOYD: In the case he talks about that is part of the natural hazard.

THE COMMISSIONER: Take the case he puts. One of the natural hazards is explosions, and an explosion may happen in one place and not in another, or it may kill five people in one and nobody in another. That is following up Mr. Ransford's point. Why should a man's rate be increased because it happened in

this particular foundry he was unlucky enough to have these natural causes operate more severely?

MR. BANCROFT: Take a foundry for instance where men are carrying ladles of molten metal, and sometimes there is an obstruction in the way.

THE COMMISSIONER: I am not talking about negligence.

MR. BOYD: His Lordship's point is, are not these accidents part of the natural hazard. If they are then why should there be a rule requiring every employer to pay a premium in accordance with the accidents which take place in his particular place?

THE COMMISSIONER: Would it not give an infinity of work to the Board to have to examine into that?

MR. BOYD: We do not put them in in the start. I said the object is later to amend the act as far as possible and make everybody pay the premium he ought to pay, just as I do on my house that I own.

THE COMMISSIONER: You do not pay because you have been particularly negligent; you pay because experience has shown that the hazard in the kind of house you live in is so much. You do not pay because the people about your house have been careless and a fire has been caused.

MR. BOYD: Well, I have never investigated that particular question, as to whether that accident would be a part of the natural hazard or not. Your Lordship may be correct that that would be.

THE COMMISSIONER: The insurance company classifies the different buildings. I should think it would not work out very satisfactorily unless you did so.

MR. BOYD: The figure is given here as one per cent. of all accidents as due "to act of God." That is to say, outside of being caused by the employer and outside of being caused by the employee, and outside of the natural hazard. That is, for instance, lightning would not be regarded as part of the natural hazard.

THE COMMISSIONER: Do you guard against, or provide to cover such cases as this? There was a very peculiar case recently happened in England, which went to the House of Lords. A man was working at a threshing machine out of doors and a wasp stung him, and blood poisoning followed and he died. They held that he had no claim, that while the accident happened in the course of his employment it did not arise out of the employment, and therefore he was out of it. Would your act cover such a case as that?

MR. BOYD: Our act reads like this, that every employer employing five or more persons in and about the same business is under the act.

THE COMMISSIONER: Accidents happening when and how?

MR. BOYD: That is within the discretion of this Board or this Court. Of course an act could not define all those particular cases.

MR. BRUCE: Some say, "In and about the course of his employment."

MR. BOYD: It would be for the Board to say whether he was entitled and if he was performing his duties imposed upon him as an employee in the due course of his employment.

DR. DOGGETT: Take the case of a man working for a contractor who had not been in business for six months, or six weeks, would he come within the provisions of the act?

MR. BOYD: Yes, for ten days.

MR. DOGGETT: Although the employer had not contributed?

MR. BOYD: Every person employing five persons. At one place they wanted the word "elect" in one of the provisions, so I went down and put in the provision if they did not pay the premium it would take away all common law defences.

Now, that is all the penalty there is. Every employer "shall" pay. In one law it says every person who breaks into a house shall be dealt with so and so. Take the Washington Act. They repealed the common law remedy. They have to have a penalty to enforce the Act in case the employer fails to pay the premium into their fund. The Ohio Act is as obligatory as it can be made. What difference would it make to say "if anybody elects to break into a house he shall be dealt with so and so"? What difference does it make?

MR. WATTS: You spoke of 49 per cent. of all injuries being covered by that week's waiting period.

MR. BOYD: They will occur within seven days.

MR. WATTS: Now, that whole 49 per cent. does not last a whole week. One man might be injured and not be off at all, another man might be off one day, and another two days, or three days, or four days. So that that 49 per cent does not contribute one week. It would range from nothing to seven, or six days.

MR. BOYD: Yes. Of course some only last one day.

MR. WATTS: The contribution that a man makes is the wages he loses during that idle time?

MR. BOYD: Yes.

MR. WATTS: If he is off six days he loses six days' wages, but if one day he only loses one day's wages, so it is only a percentage.

MR. BOYD: Yes. In fact the most of it is less than three days.

MR. WEGENAST: Yesterday I expressed a doubt as to your figures. I thought the figure was 41 per cent., and I expressed a doubt as to the correctness of that. It appeared to me to be a very large percentage of the accidents.

MR. BOYD: You are talking about the percentage of accidents that last only one week. I am quite sure it is 49 per cent., but I will write you about that.

MR. WEGENAST: I had 41 per cent. in the report of the Federal Commission, and I expressed a doubt as to the correctness of even that figure. I just wanted to have your confirmation of it.

MR. BOYD: I will write you a letter as to that.

MR. HARRIS: Mr. Bancroft asked you a question, if when investigating the matter any case came before you where it was known that a man deliberately had injured himself to get compensation, and you answered no.

MR. BOYD: I said there was no one produced a case.

MR. HARRIS: Then you went on to say I believe in the Ohio Act it states that if a man deliberately causes an accident to obtain compensation he shall not receive it. That is hardly the words, but it is the sense.

MR. BOYD: Yes, if a man wills to cause the injury for the purpose of obtaining the compensation.

MR. HARRIS: Can you tell what was in the minds of the committee that prompted that language when no case came before the Commission?

MR. BOYD: Well, the German Act provides this, that it defeats his claim to compensation, but the Board may nevertheless give the dependants or the man compensation even if he wills it. It is left with the Board. It defeats his right to compensation if it is shown that he willed the injury for the purpose of obtaining compensation.

MR. HARRIS: Sometimes they do will it too.

MR. BOYD: That is my own personal position, that it ought to defeat him in the right to obtain it, but there might be circumstances brought to the attention of the Board which would cause them to say it had better be paid in part or whole to the dependants anyway. Supposing a man committed suicide and they could

prove it, it would be a very hard case, and what is the difference to the dependants whether he did or not?

MR. HARRIS: As Mr. Bancroft has said there has been different expressions of opinion, and the one opinion that seemed to prevail was that some do deliberately injure themselves for compensation. Now, that act as framed shows there must have been in the minds of the Commisioners some idea of that kind, that some men do deliberately endeavor to get injured for compensation.

MR. BOYD: Yes, we just accepted that as a physical possibility.

MR. BANCROFT: It wasn't proved at all.

MR. BOYD: No, it was not proved in our hearing. Of course statistics have been gathered from different countries to show that once in a while it happens, and that under the operation of the British Act it is something over one per cent. As I stated it was held that they did. Whether they did or not, as far as the operation of the act is concerned they did.

MR. BANCROFT: Your remark threw some light on the subject. That Act was probably framed having in mind that a man might commit suicide, or something like that.

MR. BOYD: Well, of course there are a few men commit murder.

MR. HARRIS: The question I asked, and which I did not think was answered, was what in your opinion, if you wouldn't mind giving it, would you consider the best plan if the workman contributes—whether it should be in a money contribution or a waiting period?

MR. BOYD: I think he ought to contribute. Now, I am basing this statement on the experience of the German Act, and some European acts. He ought to contribute for personal injuries about 16 per cent. assuming the total disability lasts.

MR. HARRIS: In money?

MR. BOYD: Yes. You couple with that, however, this waiting period. That waiting period should be narrowed down as far as experience will warrant it being narrowed. The only object of the waiting period is to shut out abuse. That must be shut down. Now, on the theory that he contributes a substantial amount, and of course three or four per cent. would be more trouble to look after than it is worth, it is simply to recognize the principle, if it is sound economics, if the workmen are all interested in the fund it will have a tendency to prompt them to watch their neighbours, and so on. There is some sense in that. But that is under the assumption that total disability is compensated as long as it lasts.

MR. GANDER: Does the State collect this fund, or how do they guarantee it?

MR. BOYD: The act authorizes the Board to classify the premiums and fix the premiums to pay the compensation.

MR. WEGENAST: Does a man send in his cheque or what does he do?

MR. BOYD: Why, they send him a statement, or a blank in which he can fill out the amount of his pay-roll, and so on, during the last year, or during the last six months, and he makes an affidavit that he is in such and such a business, and that puts him in the class., If he is in such a class then his rate is so much. Then he makes an affidavit that his pay-roll is so much, and he multiplies his pay-roll by the rate, and that is the amount he has to pay, and he writes his cheque and attaches it to his affidavit, and the moment it is posted that is notice to the employees that they are insured against all accidents and entitled to get all the compensation that that act provides, the moment it is posted in the building.

MR. WEGENAST: I have a table here given by Mr. Schwedtman, and I wanted to ask you whether it is correct or not.

MR. BOYD: That is liability insurance.

As I say nobody knows what the Ohio rates are, unless they have been published since I left Toledo. I will send his Lordship the rates just as soon as I can.

Adjourned at 1 p.m. till 2.30 p.m.

2.30 p.m. resumed.

THE COMMISSIONER: If there is anyone desires to ask Mr. Boyd any questions now is the time.

MR. BRUCE: There was one statement I understood Mr. Boyd to make this morning in his opening remarks, that in Great Britain the workers contributed one-third. Would that relate to workmen's compensation or State insurance?

MR. BOYD: That is Lloyd George's Bill.

MR. BRUCE: But not to the Workmen's Compensation Act?

MR. BOYD: Oh, no.

THE COMMISSIONER: I did not quite understand your statement as to the limit of $1,200 or $3,400, as the case may be. You stated that in case of total disability a man received a proportion of his wages.

MR. BOYD: 66 2-3 per cent. as long as he lived, with two limits, a maximum of $12 a week and a minimum of $5 a week.

THE COMMISSIONER: That is partly invalidity insurance, and old age insurance, because if he lives over 65 he probably would be incapable of work, and you still provide for him.

MR. BOYD: Yes.

THE COMMISSIONER: Then what is the $3,400?

MR. BOYD: In case of death he gets 66 2-3 per cent. of his average weekly wages for 300 weeks. A minimum of $5 a week would be $1,500, and the maximum for 300 weeks would be $3,600.

THE COMMISSIONER: That is death?

MR. BOYD: There was a slight compromise on the $3,400, you see. It is not necessary to go into it any further beyond illustrating this point, because it will all appear in this record. I will just illustrate the point. They had 370 fatal cases that were investigated in Cuyahoga county during the period from 1905 to 1910. Now, there were 135 of those cases that received something up to $300, or an average of $163.83. Then there were 107 of those cases received something between $300 and $1,000, or an average of $519.81. There were 71 cases that received something between $1,000 and $2,000, or an average of $1,269.98. There were 42 cases that received something between $2,000 and $4,000, or an average of $2,581.13. There were 15 cases received something above $4,000, or an average of $4,991.66. There were the 15 best cases out of the 307. Take one quarter off $4,991 and you get $3,740. and $150 doctor's bill off that, and it would leave a little less than $3,600. In other words it brought it down below the $3,600, and they compromised on it and called it $3,400, and the workmen's organizations all agreed to that.

THE COMMISSIONER: Would you mind re-stating, Mr. Boyd, your reasons for thinking at least ten per cent. should be paid by the employees?

MR. BOYD: The reason that they made them contribute at all was,—and it was unanimously agreed if they contributed at all their contribution should be substantial; that is, to the extent of amounting to considerable more than it would cost to collect it—for the purpose of having them all interested in the fund, on the theory that the workmen all being interested in the fund would have a care to see that his neighbours were more careful, or whether his neighbours or

fellow-workmen were practising any imposition upon the fund, because it is costing him money. That is the theory upon which he is in. If he is identified with the fund, the employers said, it would tend to eliminate any friction between the employee and the employer. Now, a careful investigation of the German Act convinced me that in bodily injuries he paid about one-seventh, or sixteen or seventeen per cent. so we made it 15 to 17 per cent. for bodily injury. The employers insisted upon it being 25 per cent. and then we came back at them and made them agree to total disability as long as it lasted, under those higher terms. The legislature would not take the position of not making them contribute, but they would not take the position to make him contribute 25 per cent. and they compromised on ten per cent. in a Conference Committee between the Senate and the House. It never had to be re-threshed out in the two Houses. The Conference Committee of the two Houses agreed on that.

THE COMMISSIONER: What did I understand in your view to be the basic principle of such an act as we are discussing, whether you call it an Industrial Insurance Act or not?

MR. BOYD: The basic principle is simply this, that it is an insurance for the workingman and his dependants against economic insecurity arising out of the modern wage system. As Bismarck said, it provides that the dependants of persons whose earning power has been interefered with shall not be hampered in being able to get a normal training up to a point where they are able to support themselves without having to fall back upon private or public charity.

THE COMMISSIONER: Is it a violation of that principle to take out of the fund for the support of the dependants of a man who has brought the injury upon his own head by his own misconduct, and perhaps has injured others, as well as his employer?

MR. BOYD: Well, it is consistent with this position, that the dependants are in no way responsible.

THE COMMISSIONER: Is that not getting into the region of the eleemosynary, rather than the economic field?

MR. BOYD: No, I think not. There is no great evidence to show that workmen injure themselves intentionally.

THE COMMISSIONER: I am not putting that case at all. The case has been put once or twice here. For instance a locomotive engineer—we will assume the facts to be as I state them—deliberately with his eyes open, and nothing compelling him to do it, passes a signal which says to him to stop. There is another train coming on that track, and the result is that a collision follows and half a dozen lives are lost and thousands of dollars of property destroyed. He breaks his leg. Upon what principle is that man entitled to compensation? I can understand appealing to the generosity of the public for his dependants who are in no way responsible for his act.

MR. BOYD: It is on the ground of the protection of the health, safety and general welfare of the public, because his dependants, no matter whether he is negligent or not, in many cases are apt to become public charges. Now, the family as a unit are the subjects of the State, and the reason, as I said before, why Germany put it in operation, without asking whether the injury was intentional or not, was to assure the dependants at least of an amount sufficient to bring them to a point of being able to support themselves.

THE COMMISSIONER: Let me add one more factor to my case. Suppose that man is worth $15,000? Is there anything to justify taking anybody's money to compensate him or provide for his family?

Mr. Boyd: Well, I don't know that there is, but that is a very rare case.

The Commissioner: Of course it is.

Mr. Boyd: Of course limiting it to 66 2-3 per cent. or 50 per cent., or 60 per cent., whichever rule you follow, it is simply that he shall not be able under any circumstances after he is injured to get quite as much as he did before he was injured—to earn as much.

The Commissioner: It is said that there is no State guarantee in the Washington Act. Is there in the State of Ohio any guarantee?

Mr. Boyd: You mean in regard to the fund?

The Commissioner: Yes, if it should fall short.

Mr. Boyd: Well, your Lordship, the act authorizes the actuary to fix the premiums so that the fund will be able to pay all the claims against it.

The Commissioner: So the State is never called upon to do anything but pay the cost of administration?

Mr. Boyd: Yes. In Germany the employer and employee pay a great deal of the cost of administration.

The Commissioner: Well, an accident happens and death follows, or total disability. What is done then in the case of death?

Mr. Boyd: Well, the dependants, the widow or otherwise, file notice with the Board that John Smith was killed, that John Smith was her husband, and he has so many children, so many dependent upon his earning capacity. Then the Board notifies them that there will be a hearing of the case at a certain time, and to make proof of what his average weekly wages were, and of what the actual medical expense was. They would allow the widow and the dependants up to $150 for doctor's bills and funeral expenses. Of course they would not allow that much if they did not spend that much, but they would not allow any more than that no matter how much they spent. Then they take two-thirds of the average weekly wages and multiply it by 300, and if it made more than $1,500 and less than $3,400 it would be paid in monthly instalments.

The Commissioner: Where are you going to get the money to do that?

Mr. Boyd: The actuary publishes the rate and the employer pays the premium. He multiplies his pay roll for the preceding year by the rate, and pays it into the treasury and gets a receipt, and posts it in and about his place of business, and when he does that all his employees are insured under this act.

The Commissioner: Supposing you had 50 or 100 of these cases, in which between $1,500 and $3,400 was to be paid out? Would the annual contributions provide for that? Because in the Washington Act there is a provision about the employer providing the fund.

Mr. Boyd: Well, that is provided in the same way as ours is, except in the Washington Act they appropriated $150,000 to start off with.

Mr. Wegenast: What your Lordship has reference to, I suppose, is the setting aside of the $4,000. That is not done by the employer but by the insurance department.

The Commissioner: But you are getting now on to your proposition to prevent the bringing into operation of such a scheme as is proposed as being too onerous. Just explain, Mr. Wegenast, what your scheme is in that respect to Mr. Boyd.

Mr. Wegenast: Well, the scheme is that advocated by Mr. Dawson as set out in his statement and his brief before the Federal Commission, and is briefly this, that each year only enough should be assessed upon the employers to pay the pensions due for that year, with perhaps a small margin.

MR. BOYD: But the award is made.

MR. WEGENAST: Yes, but the idea is not to levy at once enough to lay aside a reserve fund to provide for all the future payments.

THE COMMISSIONER: How does your act work, Mr. Boyd?

MR. BOYD: Our act does not provide that way. It provides that the premium shall take care of all these compensations. They are only paid monthly, and I understand Mr. Wegenast to say when an award is made it is only paid out as the instalments come along.

MR. WEGENAST: Yes, that is the way the Washington Act works, but under the system advocated by Mr. Dawson, and under the system which is in operation in Germany the plan was to assess simply enough to pay the payments for that year. In the following year the assessment would be what was necessary to carry the dependants of the year before, plus the dependants accruing in that year, and the annual rate would under normal conditions continue to increase for a period of thirty-five years or so.

MR. BOYD: Under the Ohio Act they can do it either of those ways. They can work it out in whichever way they think best.

THE COMMISSIONER: When you left the common law liability open why was it you did not abolish the idea of common employment, and the rule of contributary negligence?

MR. BOYD: Just like the Washington Act? This is the reason we did not do that. The labour organizations had just put through the legislature the Norris Bill which modified all the common law employments. Well, the State was all torn up about it, and it was out of the fight on that Bill. They said the legislature passed that Bill and now we will appoint a Commission and go into this thing and get a new remedy and thresh it all out. Well, that we had just got through with, and so we decided to leave it there, but to put it out of business as far as the act covered the employment.

MR. WEGENAST: You have in all your States, Mr. Boyd, I think, as between the labor interests and the employing interests, a controversy as to whether the Act should assume the form of a liability law, stripping the employer of his defences, or a compensation law, implying of course an insurance scheme of this kind.

MR. BOYD: We might say up until 1910 all the fight was on the common law, the modification of the common law defences. Then the moment that those fights grew more intensified in say ten or fifteen of the States, then they came to the realization that it was necessary to adopt a Compensation Act or Industrial Insurance Act.

MR. WEGENAST: So that an individual liability act does not represent a permanent solution?

MR. BOYD: Oh no. I think I have demonstrated that in these statistical systems.

THE COMMISSIONER: That is what you explained to us, wasn't it, about the effect of the employers' liability insurance? Do you mean to say if the doctrine of common employment were eliminated, and the contributory negligence of the workman did not disentitle him to recover, that it would not increase the number of cases very largely in which compensation could be recovered under Employers' Liability law?

MR. BOYD: They would theoretically recover if all the common law conditions were abolished in 18 per cent. of the cases.

THE COMMISSIONER: Why so few? Do you mean the other cases would be things for which the employer would not be responsible?

MR. BOYD: No, we wouldn't have a case at all.

THE COMMISSIONER: With these doctrines eliminated?

MR. BOYD: Yes.

THE COMMISSIONER: Suppose you had to delay the passing of your act and you wanted to provide a temporary measure for bridging over the difficulty, what would be the objection to providing that these three doctrines that you mentioned should no longer have application?

MR. BOYD: Which would mean the common law defences?

THE COMMISSIONER: Yes? What objection would there be to that?

MR. BOYD: Well, I think the development of the proposition has been brought to such perfection it would be better to delay a few months and adopt the right method, than to adopt a compromise.

THE COMMISSIONER: Only as a temporary measure. It is admitted apparently on all hands that the present law is unjust.

MR. BOYD: Yes. When they took up the New York Act Mr. Wainwright was in favour of the insurance plan. He was the Chairman, but he didn't have the courage, or they did not feel like going so far as to introduce an insurance Act, so they adopted a modification of the British Compensation Act, with the hope that the Supreme Court would sustain it. That was a perfectly hopeless proposition because while the court admitted that their investigations showed that the present method of providing compensation under the common law remedy with more or less modified common law defences was justifiable, yet they said that this remedy that you have chosen is an impossible remedy under the constitution of New York State: that is taking property without due process of law. That brings us right back to the Abinger decision in Priestly v. Fowler, and in Ohio, for example, it would drive a large number of employers out of business. You take away the common law defences, and to-morrow he would be liable for $2,000 or $3,000 or $4,000 where yesterday he was not liable at all, and 50 per cent. of all employers employ less than 20 men. But if the employer is put in a position where he can pay a small premium, his prorated share, and insure himself against the liability of his workmen being injured, and they receive the same protection that the United States Steel Corporation may individually be able to furnish with its own individual scheme, as it has, and the International Harvester Company has, the court is bound to find that you have not offered to find a reasonable remedy when one exists and bring it within the law, namely, the principle of taxation. I might bring in one thing that I omitted, and that is this, the legal justification in the United States is, you appropriate the right of the employer to defend, just the same as in the right of Eminent Domain you expropriate a man's property. You can take it in three ways, for general taxation, for general public purposes, or you can take it for special assessments where the man assessed gets a special benefit, such as in the paving of the street in front of his lot, and in the general taxation he gets the general improvements of the city, sewers and so on. In the right of Eminent Domain if a man's property is taken he is supposed to get complete and adequate compensation. This comes under the exercising of the taxation power or police power, taking the right of the employer to defend, and taking the right of the employee to sue, and gives back to the employer protection from the State, and gives back to the employee his right to compensation no matter whose fault, except where the fault is malicious.

Now, just as a matter of interest, for I do not pretend to understand the jurisprudence of the Dominion Government, but I wish to call his Lordship's attention to a case that is extremely interesting to a student of American jurisprudence. In section 92 of the British North America Act, sub-section 13, the heading of the act says, "In each Province the legislature may exclusively make laws in relation to matters coming within the class of subjects next hereinafter mentioned, that is to say." Then section 13, "Property and Civil Rights in the Provinces." Under that section you had a case under what is called the Prince Edward Island Land Purchase Act of 1875. This act was passed to convert the leasehold tenures into freehold estates upon terms just and equitable to the tenant as well as to the proprietor, for which purpose it provided a Commissioner's Court, by proceedings in which a compulsory transfer of the lands affected to the Government could be obtained, and in Kelly v. Sullivan the Supreme Court of the Island held that the act came within sub-section 13 of section 92 of the British North America Act as legislation on property and civil rights of the Province. Peters, J., observes in 2 P.E.I., pages 87 and 88, "If the Provincial Legislature is restricted to subjects coming under what American jurists call the right of Eminent Domain, it seems to me that this act, at least in some of the provisions, would be an excess of legislative power, for no such emergency exists that would justify legislative interference under the right of Eminent Domain."

Now, there, where these large estates were held, on the ground, as provided under the British North America Act, for the peace, order and good Government of the Dominion, or the Provinces, or as we say, exercising the police power for the protection of the health, safety, and general welfare of the public, they passed this act which says you must sell your property to the Dominion Government at an appraised value fixed by this court created by the act, and the Dominion Government pays them so much for the land, and pays the tenant so much for his interests, and then can sell the land to the public at large, and thus create an entirely new status of owning and farming land between owners and tenants and the public at large. For what reason? For the peace, order and good Government of the Dominion. Now, that is exceedingly interesting to us.

THE COMMISSIONER: You told us, Mr. Boyd, that the Act applies only to persons employing five or more?

MR. BOYD: Five persons or more, yes.

THE COMMISSIONER: Is there any option to persons who are not employing as many taking the benefit of the act?

MR. BOYD: There is nothing in the act.

THE COMMISSIONER: Would that not be a proper provision?

MR. BOYD: Yes. We recommended that, but through an oversight it was not put in. You remember seeing about a lot of graft in the legislature, and they indicted ten or fifteen of the legislators at that time. That was merely an oversight that it did not provide that it be left optional on those employing less than five men to come in. It should so provide.

THE COMMISSIONER: Take an employer with a few men. Perhaps in the summer time he will have five or six and in the winter time he will have one or two, or perhaps none. How is he classified?

MR. BOYD: Well, there is a large discretion residing in the Board. The act says every employer employing five persons or more, that is, regularly employing five persons or more, in and about the same business.

THE COMMISSIONER: Would they then take the average over the year, or how would they work that ?

MR. BOYD: Well, half or more of the year. You see it was merely on practical grounds, to let out domestic servants and casual employments, and most of the farmers; but it is intended, of course, to put the farmers all in in a short time.

THE COMMISSIONER: If they will let you.

MR. BOYD: In spite of their letting us.

THE COMMISSIONER: Which is larger, the urban or rural population in Ohio?

MR. BOYD: The city population. It is like this. The labour organizations and the employers' associations are much more readily educated on the proposition than the scattered and isolated farmers. They have very little organization as yet, but organizations are being developed among the farmers.

THE COMMISSIONER: Do you think you will ever educate a farmer to believe in that?

MR. BOYD: We got their leaders to admit it after the act was passed.

THE COMMISSIONER: Do you mean to say you will ever get him to believe that if he has John Smith employed, and John Smith goes into the stable and a horse kicks him and kills him that he should pay $2,000?

MR. BOYD: I was raised on a farm myself until I was 25 years old, and a very large percentage of the farmers only have the husband and sons working, and if through some misfortune the son is seriously injured, or the farmer is seriously injured, there would not be any sense in suing himself, but when this act comes into force he can insure himself and get compensation. It was deliberately left out for the purpose of getting the act as far as we could get it, but mark what I tell you, that perhaps not the next legislature, but the third one, he will be in.

MR. GANDER: The act in the State of Minnesota includes the farmer.

MR. BOYD: Do you mean Wisconsin? They have no compensation Act in Minnesota?

MR. GANDER: They have a Bill that is pretty well ready to go before the House now.

MR. BOYD: What they have done during the last six months I don't know.

THE COMMISSIONER: What do you think of a case of this kind, Mr. Boyd? A small employer of labour, say a carpenter, works at the bench beside his workmen. He is injured, possibly by the carelessness of one of his men. What reason is there that he should be excluded from the benefits of such an act?

MR. BOYD: Well, as I say, we just drew a limit where experience had shown it was wise. In launching a big scheme you have to draw the line somewhere in order to inaugurate it.

THE COMMISSIONER: Is there any reason why that man in that shop should not be insured?

MR. BOYD: No, no reason whatever.

THE COMMISSIONER: Is there not some law of that kind?

MR. WEGENAST: The Washington Act allows them to come in voluntarily.

MR. BOYD: Our recommendations were that any employer could come in voluntarily, or come in himself, but inadvertently that was omitted.

THE COMMISSIONER: Now, this leaving of the common law liability upon an employer who by his wilful or malicious negligence, as you have expressed it, causes the injury, to whom does that extend? Take the case of a joint stock company that is running a business, the International Harvester Company, if you

like. What is to be understood by the employer as applying to that company? Does it mean the company itself or its directors, or the superintendent in charge?

MR. BOYD: The superintendent.

THE COMMISSIONER: You do not say so in so many words.

MR. BOYD: It is left to the Board to determine.

THE COMMISSIONER: There will be a great deal of work for this Board to do if you have left it free and easy like that. You see one of the troubles is about these corporations that we have no such doctrine here as the vice-principal. That gets over a good many difficulties on your side, but the general manager of the company is a fellow servant just as much as the man that carries the lead or the iron in a foundry.

MR. BOYD: Well, of course with us it is defined. That provision was put in there as a compromise in this matter, of the right to sue also, and I thought that it ought to be in the statute which is called the Factory and Workshop Inspection Act, a regulation regarding the machinery and the operation of machinery.

MR. WEGENAST: You thought the employer should be got after in that way?

MR. BOYD: Yes, but they insisted on something of that kind in this act.

THE COMMISSIONER: Is the Washington Act not better than yours, that when an accident happens owing to failure to comply with the provisions of any act or ordinance the employer pays so much into the fund, instead of making him liable according to the common law?

MR. BOYD: That is what I recommended, but in this compromise they got it in in that shape.

MR. WEGENAST: They did not want to be deprived of the right of trial by jury.

MR. BOYD: There would not be one case in 10,000. Supposing a man that is killed has been earning $3 a day. Two-thirds of that is $? a day, or $1? a week. Now, he gets $3,400, and $150 for doctor's bills. He is going to sue an employer, we will say, who neglected to put a guard on a saw. He is going to sue the employer at common law and deny himself any possibility of getting anything under the Compensation Act, and stake his chances on that, and divide up with his attorney, and the jury might allow him $5,000 or $6,000. With us it is usually $4,000 or $5,000. Then it goes up through the Circuit Courts, and to the Supreme Court and back, if the verdict is large. He never would do it in the world.

MR. WEGENAST: That is your average verdict in cases of that kind. I think Mr. Emery stated somewhere that the basis of assessment of damages in the United States is uniformly very much higher than in this country, and about twice as high as in England.

MR. BOYD: You will find that in the statistics of our investigations, on page 40 of the brief.

MR. WEGENAST: And you base the limitation of $3,400 on what?

MR. BOYD: We took the fifteen best cases out of 370 in Cleveland.

MR. WEGENAST: Do you think that is a fair way of getting at it?

MR. BOYD: Well, it should not be higher than that. The employers said we will stand for that in order to get rid of this litigation.

Now, as to the cost of the act. It is figured that the act will cost from two to three or four times as much as it now costs the employers in the State of Ohio.

That is assuming that all the waste in the liability insurance, and the hiring of attorneys, and what liability companies keep as over against what they actually pay out, that all to go in together, and then multiply it by two.

MR. WEGENAST: Then to compare the corresponding benefits under a system where the liability is thrown on the employer individually, how much do you think your rates would be increased over what they are? Supposing you had a system like the British Act, where each employer insures voluntarily, how much more would it cost?

MR. BOYD: Well, I don't know. Of course in our act the employee contributes ten per cent. of what the employer does. That is considerably more than ten per cent. of the entire cost, because the cost of administration will be somewhere between ten and twenty per cent.

MR. WEGENAST: Do you think it would be as high as that?

MR. BOYD: I think it is about twelve per cent.

MR. WEGENAST: In Germany they have it down to about four and a half per cent.

MR. BOYD: But they do not pay all the costs of administration. I think it will be reduced to between ten and twelve per cent. after five or six years.

MR. WEGENAST: I am stating in my brief that it will take about twice as high a rate under an individual liability system as it would under an insurance system, basing my statements on statistics in England. Have you anything which will confirm that, or otherwise?

MR. BOYD: I would not like to make a statement off-hand now. We have gone into that pretty carefully, but I do not carry the figures in my mind. If you write to Mr. E. E. Watson, State Liability Board of Awards at Columbus, he will give you all the information on that. He has got the best information there is in the country. Have you read Part III. of this report?

MR. WEGENAST: Not through. I have looked through it.

MR. BOYD: You will find something in that.

THE COMMISSIONER: I have no doubt you have read the criticism of the Washington Act. I have just forgotten the man's name. One of his objections is that it will tend to make men more careless, and that the careful man is no better off than the careless man.

MR. BOYD: Of course we went into that as thoroughly as we could, and we finally came to the conclusion that the employee contributing from ten to twenty per cent. where he was given total disability as long as it lasted, that that was the best possible arrangement we could make to start the proposition.

I might say to your Lordship that a lot of these people get up and write something criticising some act or other who have not spent perhaps one week or two weeks of solid study on it. Now, what does that amount to? It takes a man at least six months to learn very much about it, and if he studies it two years he will find out he knows less about it than he did at the end of six months, and it is idle to pay any attention to a man's criticism unless he is a thorough student of the system.

THE COMMISSIONER: Such a criticism as that even on the surface contains evidence of it. That is a thing that does not require much study, does it, to determine what your opinion would be as to whether the effect would be to make an employee careless.

MR. BOYD: Well, you will find this in Part II. There are one or two who are afraid that people will have their fingers and hands cut off by the score under

an industrial insurance act, as they were under the old common law arrangement of insurance. Well, that is not so. Accidents per thousand employees in Germany and France, and even in England, are much less now than they used to be. There is nothing in the argument at all. It is mere guess work.

THE COMMISSIONER: There was another objection made, that a man with a high wage, leaving a wife and one child, that his family would not get any more than a much lower paid man who was killed who had three or four or five children.

MR. BOYD: Well, I think our act is slightly defective in providing an analysis of the compensation to dependent children. Our act simply provides that the dependants of the man killed get from $1,500 to $3,400, but the German Act, for example, and the Russian Act, and the French Act, and all other acts, and your Lordship will find in Part I. all the acts from civilization down—you will find the scales of compensation in those cases in there. For example, the German Act and the Russian Act provides the widow gets twenty per cent. of it, and the first child gets twenty per cent., and the second child gets twenty per cent. That would make sixty per cent. Then, if there were more children, it would be divided up so that the total would not exceed sixty per cent. That is a more just way, but it might have taken two weeks longer to have hammered that through the heads of some of the Commission. I tried to get it through Smith's head, and he couldn't get it through, and we did not want to defeat the Bill just because we could not get that simple provision through Smith's head. We wanted the act ready before the Constitutional Convention was pulled off.

THE COMMISSIONER: Will the effect of such an act, in increasing the burden upon the employer, have any effect in keeping old men out of employment?

MR. BOYD: I think not. We discussed that, and the employers discussed it, the most intelligent employers in Cleveland, I think. They said we are willing to pay four times as much, or even five times as much, to get rid of this old wrangle between the employers and the employees. Now, one gentleman from Brookfield, I think it was, said, I don't take any stock in this argument, because Ohio will have such a Compensation Act and Indiana does not, that the employers of Indiana will be at a great disadvantage as against the employers of Ohio. He said that is all rubbish and nonsense; and Kilbourn of Columbus said the same thing.

THE COMMISSIONER: With what arguments did he back that up?

MR. BOYD: Well, he said the competent workman would tend to go where he could get the best consideration, and five good workmen as against seven poor workmen would do more work.

MR. WEGENAST: Do you think, Mr. Boyd, that a man would go to a State where he got $2.50 a day with a good Compensation Act, in preference to a State where he got $3 a day with a poor Compensation Act?

MR. BOYD: I think that is almost true. Now, in Germany, when they were inaugurating the scheme, they never asked whether France or Holland or Russia was going to do it; they did it not on grounds of sentimentality, but on grounds of sound and wise statesmanship. That is what they did it for.

MR. WEGENAST: Did you have any opposition on the part of the employers' liability companies?

MR. BOYD: Oh yes. We had a room twice as big as this, and the walls lined with liability insurance men. We had fifteen there one night.

MR. WEGENAST: I suppose you have read the addresses and compilations by Mr. P. Tecumseh Sherman?

MR. BOYD: No. There are a lot of parlour orators who disuss the Workmen's Compensation Act, who never go anywhere and never do anything. You don't require very much investigation to know that is true. At the Convention of the National Economical Society they had a great number of parlour orators, and a few hard-headed people who were willing to study the thing out and take a step and stand on it. If Mr. Wainwright had insisted upon an insurance act they would have had it in New York State, and the State would have held it constitutional, and they would have had the act in effect.

MR. WEGENAST: There is a series of addresses being distributed by the National Civic Federation.

MR. BOYD: They are mostly made up of parlour orators. I do not wish to mention any names, but I was there in December of 1910, and they were all on the water wagon. They said it is an insurance scheme, and the courts will never sustain it. That is what Parker said in the Chicago Conference; and Davy of Boston, the Chairman of the Committee of Ten on uniform State laws in the United States, took the same position: but they took the Ohio Bill down in Massachusetts and drew the Massachusetts Bill right after it with one exception, and that is they allow the liability insurance people to get their hands into the business, by allowing the employer to contract out of it.

MR. WEGENAST: To form separate schemes.

MR. BOYD: Yes. That is it lets the liability insurance companies do the business.

MR. WEGENAST: To let them down easy.

MR. BOYD: Yes.

MR. WEGENAST: Is it anticipated they will continue in business for any length of time?

MR. BOYD: I don't know about that.

MR. WEGENAST: Have you seen this book, Mr. Boyd? It consists of addresses by representatives of the Liability Companies at the Fifth Annual Meeting of the Liability Insurance Association.

MR. BOYD: No, I haven't read this.

THE COMMISSIONER: What were the arguments that these Liability Companies urged against the passing of the Workmen's Compensation law?

MR. BOYD: No argument, except they wanted to continue doing business. For instance I met one man and he wanted to see the rate being charged in the Washington Act. I gave it to him, and then he said under that provision of our Act where the employee might sue in case the employer was guilty of violating some inspection Act provision it would cause a large number of cases. Their whole argument is that it will affect a large number of cases, or cover a large number of cases. That is the sole argument now.

MR. WEGENAST: So there would be still a necessity of insuring against that liability.

THE COMMISSIONER: There would not be if the man obeyed the law.

MR. BOYD: It is a question of what practically will take place. Every workman knows what he is going to do if he has got a cinch on $3,400 and the doctor's bill. Everybody knows whether he will go over to Charles Thatcher's office and enter into a written contract to give him from 20 to 50 per cent. of all he will get, and drop any right he has in $3,400, and $150 doctor's bill. He never will do it.

THE COMMISSIONER: What do you do with non-resident dependants?

MR. BOYD: Well, we recommended them to get half. I think they are treated the same. It is either half or the whole.

MR. WEGENAST: Whether they live in the United States or not?

MR. BOYD: Yes. It is either the half or the whole.

THE COMMISSIONER: Upon what logical ground do you defend putting them on any different footing?

MR. BOYD: Well, they live under different wage conditions. For example, if they are supporting children abroad they are not a part of the community and do not shoulder any of the responsibilities, and the man working here gets 66 2-3 per cent. of a higher wage, while in Austria he would get 50 or 60 per cent. of a lower wage.

MR. BRUCE: Does the Ohio Act recognize non-resident dependants in another State?

MR. BOYD: They recognize non-resident dependants in any country in the world, either half or the whole. I recommended half.

THE COMMISSIONER: If the principle of your act is that justice demands that the employee should be protected to this extent, that is one of his rights, why should the flag he lives under make any difference?

MR. BOYD: Well, if what I said is no reason then there isn't any reason.

THE COMMISSIONER: I could understand it as based upon what you said. The real principle is it is for the benefit of the community of your State.

MR. BOYD: The legal basis of the act is the protection of the health, safety and general welfare of the public in our State.

THE COMMISSIONER: Then I can understand the logic of that.

MR. BOYD: There is no use putting a premium on people residing here and supporting their children abroad.

MR. WATTS: Suppose you have the case of a workman in Ohio who is a Macedonian, but capable of earning just as much as an American, and he is killed. He has a family living in Macedonia, and they are maintained in Macedonia for probably half what they are here. Now, those dependants are the heirs of that man who is killed, and they are entitled to whatever is awarded to him. Now, do you regard the full amount and pay it to them, and if you do how do you do it, weekly or monthly?

MR. BOYD: Monthly. They are allowed either half or the whole. I am not just sure of how the act is. My memory is there is no discrimination. There were a few things in the Bill as finally passed that I do not remember, and I would have to look it up.

MR. WEGENAST: Would not the fact of the non-resident dependants being recognized in your State, and not being recognized in another State, constitute an unfair disadvantage and discrimination?

MR. BOYD: Well, there would be some slight discrimination there, but the general tendency will be in my opinion to give them something.

THE COMMISSIONER: It was held that what we call Lord Campbell's Act, that first gave the right in fatal accidents to recover, did not apply to the foreigner killed within the jurisdiction, but that was reversed by the House of Lords. They held that the foreigner was just as much entitled to the benefit of that act as a subject of the Crown.

MR. WEGENAST: Do you anticipate any difficulty in finding out whether there are really dependants, and who they are?

MR. BOYD: Well, that was an objection that was raised to giving them anything.

MR. WEGENAST: For instance the Chinese?

MR. BOYD: Not only that, but as to the just distribution amongst them, and whether they would ever get any of it. Even their own parents. They have great difficulty sometimes in getting the money to them, especially amongst the ignorant people.

MR. WEGENAST: There was one feature I would have liked you to have gone into a little more at length. You appear to anticipate under your act there will be formed something in the nature of the employers' associations of Germany?

MR. BOYD: Something of that kind.

MR. WEGENAST: You do not afford any facilities in the act for it?

MR. BOYD: The act is left so that it can be attached to it.

MR. WEGENAST: Then what do you expect these associations to do? What will be their scope?

MR. BOYD: That will depend on the intelligence with which they manage their business.

MR. WEGENAST: Do you expect they will have any influence in the matter of prevention of accidents?

MR. BOYD: Yes, great influence.

MR. WEGENAST: Do you expect they will appoint inspectors and expert draftsmen of machinery?

MR. BOYD: There is no question they will.

MR. WEGENAST: In that case then would it not be better to have the industries classified according to the industries rather than according to the hazard of risk? You remember the allusion to that this morning?

MR. BOYD: Well, in the course of two or three or five or six years we will have over a million workmen, and employers of over a million workmen. Now, it will not do to try to manufacture too many details in the launching of the scheme. What the workmen want is the recognition of a new remedy within reasonable limitations, and then a rational extension of it.

MR. WEGENAST: I was thinking of what would likely happen in the future.

MR. BOYD: I think they will follow almost identically the steps of the German plan.

I would like to add this. Just think of it. They have demonstrated that act, all of it, for twenty-four years, and the number of workmen under it has increased from 3,000,000 to over 27,000,000 in 1908, and they never have changed one figure in the scale. but they have constantly changed the administrative features of the act. That is constantly changing. They got together and agreed upon this scheme and it has never been changed in twenty-four years. That shows from the standpoint of statesmanship they got it fairly accurate, or there would have been constant changes.

MR. WEGENAST: Then you think, Mr. Boyd, it is not necessary in order to work out the principles of the German Act to have these voluntary associations that existed before the German Act was passed.

MR. BOYD: No.

MR. WEGENAST: You anticipate the voluntary association part will be worked out voluntarily as a result of the act?

MR. BOYD: Yes.

THE COMMISSIONER: I suppose it is not expected that these bodies would be any more than advisory?

MR. BOYD: Well, it will be up to the employers largely to adjust that matter.

MR. WEGENAST: For instance if the employers in the woodworking industry were classified with the employers in the agricultural implement industry and they came to the conclusion the class should be divided it would be divided?

MR. BOYD: It would be divided. They would simply bring in a recommendation to the legislature, and the workmen could not have any objection.

THE COMMISSIONER: I thought the Board would have power.

MR. BOYD: It would be under our act. All we have to do is induce the Board to do it, and no doubt the Board would do it.

MR. WEGENAST: Do you think that would be better than to have it arbitrarily fixed by the legislature?

MR. BOYD: I do, yes. You are more highly developed here in the matter of operating through Commissions than we are, and the population of the Province is not so great.

MR. BANCROFT: Your population will grow up in the meantime and the efficiency of your Commission will grow.

THE COMMISSIONER: I should doubt if an act that left it entirely to the Board to start the scale would be satisfactory.

MR. BOYD: It is an awkward proposition.

THE COMMISSIONER: The Washington people evidently got their experts to work and they put it in the act, and you waited until after the act.

MR. BOYD: That question will be answered when you get the Ohio actuaries' scale. You will find it very different from the Washington scale, but they have got to go to the legislature to change the rates. The Board can do it whenever the employers' associations show them it ought to be done.

THE COMMISSIONER: I do not think it would be necessary to go back.

MR. BOYD: Can they change the rate, for instance?

MR. BANCROFT: If the expense exceeds the revenue they can raise the rate to meet it.

THE COMMISSIONER: "If after this act has gone into operation it is shown by experience . . . any establishment or work is unduly dangerous."

MR. BOYD: You see they put the rates right into the act, and they say in such a class of employment the rate is thus. Well, of course the Board cannot change the law.

THE COMMISSIONER: It would be very easy to have a law which started with a schedule, and giving the Board power to change it from time to time.

MR. BOYD: Yes, that would be the same as we have.

MR. BANCROFT: What does this scale mean? Take "powder"

MR. BOYD: That means they charge $10 a hundred on the pay-roll.

THE COMMISSIONER: It would not look like that to the ordinary casual reader.

MR. BOYD: I wrote him and found out about that.

THE COMMISSIONER: .035 means what?

MR. BOYD: $3.50 a hundred.

MR. WEGENAST: I have a letter here from the manager of one of the large lumber companies in Seattle, and he says, "On account of my previous experience as outlined above I was somewhat opposed to the State Compensation Act as they had contemplated a cost of seven and a half per cent. on the pay-roll. However, we were able to get an amendment which made the two and a half a balance, and made the subsequent assessments cover only actual losses paid out." So there must be power to reduce that rate, and I think I remember a section there by virtue of which it was done.

Mr. Boyd: His Lordship first referred to a section where if they discovered some new character as to the hazard of an employment they could change it.

The Commissioner: That is a particular man who by mismanagement increases the hazard they can alter his classification.

Mr. Doggett: Under the act of the State of Ohio do you not find that the employers who are employing more than five individual workmen, who are within the act, have a preference over the employers who do not come within the act?

Mr. Boyd: I don't know really how that would be. We had to draw the line somewhere in order to start the act off, and unfortunately they omitted to provide that employers of four or fewer men might voluntarily come under the Act. In Toledo, for example, there are fifteen or twenty who employ only three or four men who would like to come in voluntarily. An amendment will be made a year from this January.

Mr. Doggett: There must be thousands in the State of Ohio who are not within the scope of that act.

Mr. Boyd: Do you mean carpenters?

Mr. Doggett: Carpenters and sheet metal workers and such like. In the city of Toronto, for instance, there are hundreds of so-called contractors who are employing sometimes four and sometimes three, and sometimes they have no work on at all.

Mr. Boyd: The Wisconsin Commission recommended four or more.

The Commissioner: What objection is there to having no limitation?

Mr. Boyd: I have stated that several times. In Ohio it would be impossible to launch the act, and look at the abuses which would arise, these ambulance chasers, and all these people. Every Polish woman that had a little accident in a laundry, the employer would not know about the act and would not be insured under the act but his defences would be gone, and there would be just a stack of litigation of that kind.

Mr. Wegenast: A man is not insured, or his men are not insured, until he gets his receipt? He has got to pay his premium first?

Mr. Boyd: Yes.

Mr. Wegenast: Then what happens if he is not insured?

Mr. Boyd: In case a workman is hurt all his defences are gone. He has simply nothing to do but to prove he was at fault. I advised with a great many attorneys who had experience of forty years in defending corporations, and they said that the removal of all the common law defences would drive them all in, practically. That is a question of judgment as to what the penalty should be. The workmen can see there ought to be a reasonable penalty, and that was voted on unanimously by the representatives of labour and the employers.

The Commissioner: I did not quite follow your answer to my question as to why the act did not apply to every case in which one man was employed by another.

Mr. Boyd: Well, we simply concluded first from the experience of other countries. These European countries, most of them, started off in that way. Germany started off in making their act applicable to five or more. Then we wanted to guard against the difficulties that would arise in launching the act.

The Commissioner: You wanted to feel your ground?

Mr. Boyd: You will notice in my brief what the Supreme Court says about that. This gentleman, Mr. Doggett, raised the question as to the unfairness to the workmen working where there were three or four. There the court justified that elimination as being a reasonable elimination, because where five or more

men are employed there is more danger than there would be where there were two or three men employed, and where there are only two or three men employed they have a chance to know more about each other than where there are ten employed, and we have that principle established in the regulation of mines.

THE COMMISSIONER: We have it in our Factory Act, I think. I think it is five.

MR. WEGENAST: In the Washington Act they lapse a payment or two, apparently.

THE COMMISSIONER: The changing of these rates can only be done by the legislature.

MR. BOYD: The Board can do it with us. They make the employer pay it in advance, and for example, if they have made the rate too high on an employer they adjudicate that in the next premium.

THE COMMISSIONER: Why do you not make the workman's right of compensation commence at once, whether the man pays it or not. It is sure to come in.

MR. BOYD: Well, the proof is whether a man is entitled for one day or two days.

THE COMMISSIONER: I do not mean that. I understand you to say the workman is not insured until the premium is paid by his employer.

MR. BOYD: Yes.

THE COMMISSIONER: Why could you not abandon that feature, because it is sure to be paid? Why should a workman not be insured from the beginning?

MR. BOYD: If you put it in that form and he fails to pay then the workman is not paid.

MR. WEGENAST: You haven't the money to pay him.

THE COMMISSIONER: It can be made up by an assessment. It is just putting the employees of men who do not pay promptly in a hole.

MR. BOYD: Well, we make a penalty.

THE COMMISSIONER: But that does not help the workmen. Supposing the workman's right was absolute upon the fund whether his employer paid or not, what objection would there be to that, because from the body of the employers you would get the money eventually.

MR. BOYD: No, you wouldn't unless everybody paid his pro rata share, like fire insurance.

THE COMMISSIONER: But the next year you would raise the rate?

MR. BOYD: That would not be just. You would make every man pay in proportion to the hazard of his business.

THE COMMISSIONER: If you want to get at improving the position of the great body of workmen do not leave them out if their employers do not pay up to date, because it would happen every year, and if a man defaulted for a week or two weeks the workmen would have no claim upon the fund, unless the Board in its discretion allowed it.

MR. WEGENAST: Would that not make just the difference between a State system and a collective system?

THE COMMISSIONER: I do not see why if such a system were adopted there should not be a pro rata assessment?

MR. WEGENAST: That makes the difference in the case your Lordship suggests: the State would really stand behind them.

THE COMMISSIONER: The State would only temporarily do that. I don't care what you call it, the thing is what you do.

MR. DOGGETT: Supposing I am a carpenter working in the State of Ohio for a year or two years, under the present act, and the contractor employs over five carpenters and we are all insured under the act, and I get fired from that employer and go to another one who only had four carpenters working for him, and I met with an accident. Where would I be?

THE COMMISSIONER: Out in the cold.

MR. DOGGETT: After I had been paying for years.

MR. WEGENAST: You are not paying for years in advance.

MR. GANDER: If he paid for one year it would be good for one year.

MR. BOYD: Where your premium is based upon your pay-roll, why, the pay-roll is the measure of the exposure of the workman to injury, isn't it?

MR. GANDER: Yes.

MR. BOYD: Then if your premium is paid based upon the pay-roll you have covered the exposure.

MR. DOGGETT: My point is this, Mr. Boyd. After working two years for an employer that had more than five men working for him that was within the act, and then I get fired and work for a contractor with less than four men and I have an accident, would I have to fight that employer under the common law to get compensation—under the Ohio Act I mean?

MR. WEGENAST: Supposing a man works for an employer of five men or more in the month of January, and the assessment is then paid, say on the basis of the pay-roll, which included we will say, Mr. Doggett. Then Mr. Doggett leaves that employer and goes into the employ of a man who does not come under the insurance system, his insurance is paid on the larger man's pay-roll, but he doesn't get it.

MR. WATTS: His insurance is not paid beyond the time he is working. The employers' liability insurance companies, for instance, collect your premium on the pay-roll. They do not pay any insurance whatever on a workman who may be hurt when he is not in your employ.

THE COMMISSIONER: Take Mr. Doggett's case. If he were to contribute ten per cent. why should he be in that position?

MR. BOYD: He just contributes ten per cent. of the wages that he earns.

THE COMMISSIONER: But he gets no insurance for it in the case put.

MR. BOYD: He didn't get any because he didn't pay for any.

MR. DOGGETT: It is not my fault.

MR. BOYD: You are getting across the line of practicability.

THE COMMISSIONER: Suppose a person is employed with Mr. Smith who is insured, and Mr. Smith deducts the ten per cent. from him, if that is the law. Then in six months he goes away into the employment of Thomas Jones who has only three men. What justice would there be in leaving him without any remedy under the act when he has paid for insurance for the year?

MR. WEGENAST: I think it does not go for the year.

THE COMMISSIONER: I am talking of the scheme of this act which does pay for the year.

MR. BOYD: No, every six months.

THE COMMISSIONER: Under the Washington Act it is a yearly payment.

MR. WATTS: In the case of Jones you are not collecting anything at all. Jones pays nothing and therefore the workman is paying nothing during that period.

THE COMMISSIONER: If you have the Washington system where the yearly payment is paid in advance, and you have as Mr. Boyd recommends, a contribution of ten per cent. taken by the employer from his employees, that amount would have paid for his insurance during the ensuing year, and if he left that employment and went into the employment of somebody that was not insured he would not get anything, although he had paid his ten per cent.

MR. WATTS: Suppose, your Lordship, this particular case. A man is working for a firm in the month of December, and on the 1st of January you put this act into force. He works for that firm for a week. The act goes into force on the 1st of January and you make your assessment on the pay-roll on the 31st of December, and that man was on the roll and his assessment, such as it was, was collected, but perhaps he left that firm in the first week in January.

THE COMMISSIONER: That is a payment in advance for insurance for the year to come under the Washington act.

MR. WATTS: Not on the individual. It is on the total pay-roll.

THE COMMISSIONER: It is to insure all the workmen. What answer is that to Mr. Doggett? The employer deducts from him ten per cent. of what he has to pay in respect of his wages on the basis of the contribution. When he goes into the employment of somebody else and is hurt what answer have you got for him when he says, "why, I paid $? or $5 or $10," whatever it was, "for insurance for a year, and why won't I get it?"

MR. WATTS: But he did not pay $10 for insurance for the year. If he had worked for the year previously he would.

MR. WEGENAST: It depends on whether you view it as a payment in advance.

THE COMMISSIONER: That is what the Washington Act says.

MR. WEGENAST: There is a temporary difficulty there.

MR. GANDER: Do I understand Mr. Boyd to say very likely it would be changed to include men who employed five or less?

MR. BOYD: I think the next legislature will make it elective for those who employ four or less, and ultimately it will be extended to include practically everybody.

MR. GANDER: That will cover the trouble entirely.

MR. DOGGETT: That is why I asked Mr. Boyd if he did not think under that present act it would have the tendency to be a hardship in particular trades, in the building trade for instance. Would it not make the men leave the employer who had only four men working and go to the employer where he knew he would be insured and come within the scope of the Ohio Act? The reason I raise that is, it is a very vital point for the building trades to consider. I know for a fact in our own trade the majority in this city have in the neighborhood of three or four or five or six employers in one year.

MR. WEGENAST: You would like to have the elective feature included in the act. You would want the man who employs less than five to be able to insure if he wanted to?

MR. DOGGETT: Certainly.

MR. BOYD: He wants more than that.

MR. BANCROFT: We have asked for compulsory insurance.

MR. BOYD: That is what we will have in a short time, but we didn't put it in that way to start. You have got to get a start made and get somewhere first, and then you can extend it as far as public sentiment will demand it.

MR. DOGGETT: There is another case might come up under your present act in the State of Ohio. A large foundry, for instance, in one of your leading cities

would be employing a large number of foreigners whose dependants would be living in other countries or other States. We will say two or three men meet with accidents and their dependants in foreign countries would receive compensation, and we will say there are some American citizens working for American contractors in the state of Ohio who get hurt and their dependants do not receive compensation, and therefore the dependants of foreigners in other countries will receive compensation under the State law of Ohio, and a citizen of the State of Ohio who has perhaps lived there all his life, if he meets with an accident in a factory employing less than five individual workmen, would not receive compensation at all.

MR. BOYD: Of course that is true. Of course the hazard where two or three persons are employed is much less than where eight or ten are employed, and it is only a question of expediency for a short time to get the scheme going.

MR. GANDER: How long has this act been in working order?

MR. BOYD: It has not been working yet. The act will go into effect just as soon as the rates are published now, perhaps next week.

THE COMMISSIONER: Do you know Mr. Moulton of Ishpiming, Michigan. He is a lawyer who has drawn a Bill. Is there a Michigan Bill?

MR. BOYD: There is a Commission. They advised with me about starting up the work of the Commission.

MR. WEGENAST: I had a long talk with Mr. Smith a few days ago.

MR. BOYD: They were going to take my man Watson to work up there but he got some appointment as actuary.

THE COMMISSIONER: I would like to ask what, if anything, there is in the notion that some people have that the wage is increased in proportion to the risk attendant upon the work?

MR. BOYD: There is nothing in that whatever.

MR. BANCROFT: Are you familiar with all the systems in Europe?

MR. BOYD: I have made a careful study of them.

MR. BANCROFT: In Great Britain the workmen do not contribute to workmen's compensation.

MR. BOYD: Under the old act they do not. Under the new act they do, the Lloyd George Act.

MR. BANCROFT: That is the Sickness Act. It is not Workmen's Compensation.

MR. BOYD: Oh yes, it covers the whole thing. It insures against sickness, accidents, old age and out of work.

MR. BANCROFT: Great Britain is in this position. Germany first brought in a bill for sickness and death insurance; secondly they brought in a Bill for invalidity and old age, and then they introduced workmen's compensation. Great Britain started with workmen's compensation and they are now supplementing.

MR. BOYD: Germany does not have any compensation in the sense that England has.

MR. BANCROFT: They started where England left off.

MR. BOYD: The German Act is sickness, accident, and old age insurance. The British Act is compensation and the award is made against the employer personally, but in Germany the award is against the fund, not against the employer at all.

MR. BANCROFT: In Great Britain we claim this, Mr. Boyd, that the social insurance of Mr. Lloyd George has nothing to do with the Workmen's Compensation at present in existence. That legislation stands and is being worked out in some measure to a satisfactory conclusion. Now, in Germany we also claim

that directly the workmen do not contribute to workmen's compensation, and we have evidence we think to establish that.

MR. BOYD: You are mistaken about that, because he does contribute.

MR. BANCROFT: I said directly.

MR. BOYD: It takes it out of his pocket and puts it in there. It does not make any difference.

MR. BANCROFT: There is a difference, and we want to establish this thoroughly, that in Germany the man who is injured comes under the sickness insurance for thirteen weeks. The compensation takes care of him after the thirteen weeks,

MR. BOYD: You are mistaken in calling it compensation. It is insurance after thirteen weeks, because his claim is against the fund, not against the employer.

MR. BANCROFT: The fund in Germany is not accident insurance. We could call it workmen's compensation and have the same act.

MR. BOYD: When you use the word compensation in the British Act there is as much difference as day and night, because under the Compensation Act the award is made against the employer personally, and if he is able to pay it you get it, and if he is not you don't get it.

MR. BANCROFT: Aren't these terms as to which the employers differ, and which the workmen do not differ? Employers' liability to the employees is different from collective insurance, or even a mutual trade insurance association. To the workmen compensation is compensation whatever you call it, if he gets compensated for his injury.

MR. BOYD: He gets the money.

MR. WEGENAST: If he gets it; there is the problem.

MR. BANCROFT: We claim this, and I think we can establish it, that in Great Britain the workmen do not contribute, and in Germany the workmen do not contribute to workmen's compensation.

MR. BOYD: You are mistaken in the way you claim it.

MR. BANCROFT: In Italy, in Holland, and in Sweden the legislation is not built upon that theory. There are only two places in Europe, Switzerland and Austria, and the third place where there is that kind of legislation, where the workers contribute, is the State of Ohio. We claim the evidence is all against it.

MR. BOYD: Your statement about Germany is not a correct statement, because a man has his leg cut off, and the workmen pay for thirteen weeks in the insurance. That is bodily injury which we in Ohio treat simply as accident insurance.

MR. BANCROFT: Supposing you wiped the social insurance out in Germany, the sick and death insurance, and the invalidity and old age insurance, and left just what they call the accident insurance, would the workmen contribute?

MR. BOYD: No, but what would he get? He would lose $550,000,000 in twenty years and get $232,000,000.

MR. BANCROFT: It was because that legislation was in existence first that they had to make it in that way. In Great Britain they do not have any difficutlies.

MR. BOYD: It does not make any difference how it was brought about so long as he contributes.

MR. BANCROFT: I am saying directly the workmen do not contribute in Germany, Great Britain, Holland and Italy. There are only the two places, Switzerland and Austria.

MR. BOYD: Your statement is not a correct one. You may say it isn't direct and I may say it is direct, but that does not prove anything. It is a mere

matter of whether one recognizes a fact to be so. If everything is treated as sick insurance then he contributes. A man loses his leg, or both arms, or his eye, or his nose, and the workmen are assessed two-thirds the cost of carrying him thirteen weeks. Now, if we treat everything of that kind after seven days, why, that is accident insurance, although it is paid under the sick law.

MR. BANCROFT: That is right. In Ontario at the present time that is why we say the workman is not assessable. We are not dealing with social insurance. We are dealing with accident insurance.

MR. BOYD: It is purely a question of whether there is anything in the argument that the workmen would be more careful if he had an interest in the fund, and whether he ought to contribute anything to the fund at all or not. That is all there is about it.

MR. WEGENAST: And the question of the form his contribution if any, should take.

THE COMMISSIONER: I suppose the simplest way to test it would be to take the German case. Supposing the man has in his pocket $20 to-day. The tax man comes around and says I want $10 of that for your sick insurance, and he pays it out. He meets with an accident and he does not get any pay for the thirteen weeks for which he has paid that $10. Surely it is obvious that he is contributing to his support while he is incapacitated by the accident. Surely that is manifest.

MR. BANCROFT: But the fund that contributes to the thirteen weeks is not accident insurance.

THE COMMISSIONER: What is the difference? It makes a difference of $10 to him.

MR. BOYD: Take the average injury from a day to three days or five days, and so on. There are a great many people who do not get out of the hospital for thirteen weeks you see, so they draw the line there to include all this hospital business under the sick insurance.

MR. BANCROFT: If the theory is advanced that the workman should contribute just because he is going to be taken care of as a matter of sickness, then why is the proposition not made—

MR. BOYD: That has not anything to do with the question whether he should contribute or should not contribute. It is purely upon the question whether he ought to contribute anything or not. As a matter of statesmanship the argument is it would make him more careful because he is interested in the fund, and in Ohio we gave him more compensation in order to get him to do it, namely $12 a week as long as he lives.

MR. BANCROFT: In the first instance if the workmen did not contribute they only got compensation for three hundred weeks.

MR. BOYD: The workmen consented to that.

MR. BANCROFT: And did the employers agree to that?

MR. BOYD: The employers wanted him to contribute 25 per cent. and the legislature reduced it to 10 per cent.

MR. BANCROFT: And when he did it he gets it to the end of his days?

MR. BOYD: Yes.

MR. WEGENAST: Is there anything to increase the contributions?

MR. BOYD: Everything is in suspense. There has been no agitation one way or the other.

MR. BANCROFT: Our friends the manufacturers claim in the last analysis the cost of compensation rests upon the consumer.

MR. BOYD: I think there is no question that is true.

MR. BANCROFT: Don't you think it is a curious thing when it is an established fact that a workman is entitled to compensation that he has to pay more for his provisions and also they take it from his wages?

MR. BOYD: If you think that simply stand on it. The question is whether there is anything in the argument that the workmen are more careful if they are interested in the fund. Now, there was a compromise in order to get somewhere, so that all workmen in Ohio where there were five persons and more employed would be under the protection of the law and have the advantage. I wouldn't take the responsibility of standing out. I thought if I could get total disability as long as it lasts I would get the report before the legislature, and let the workmen's contribution be 25 per cent., and let the legislature hammer it down.

MR. BRUCE: If it is true that in the last analysis the consumer has got to bear the expense that is a double penalty.

MR. BOYD: That would be so if the workmen paid it all.

MR. BANCROFT: We claim there is sacrifice at both ends.

THE COMMISSIONER: You surely shut your eyes to the fact that every manufacturer also pays. You must be fair in these things. Every manufacturer as a consumer pays as well as paying his tax.

MR. BANCROFT: He is one in about 5,000. Suppose he has 5,000 workmen and he is only one.

THE COMMISSIONER: Each pays in proportion to the amount that he consumes.

MR. SIMPSON: But the mass of consumers who are going to benefit by the compensation system also pay the increased cost of production.

THE COMMISSIONER: So does the manufacturer.

MR. SIMPSON: But he is only one in five or ten thousand, and he reaps the chief benefit from it, and he does not bear any burden at all. It looks as if it is anything so long as you do not hit the profit end of the employers' business.

MR. BANCROFT: As far as we are concerned the whole sentiment is against contribution by the workmen. They think it is an injustice to the workers from that standpoint. It is admitted as a theory of workmen's compensation all over the would that it is a natural charge on industry to take the hazard and the risk and pay for it, and to take the wages of the workmen at this stage of the game for the purpose of paying the compensation seems a rank injustice. There is no doubt in Great Britain they do not contribute, and in Germany they do not contribute directly, and they do not in any other country directly. It is only by reason of the fact that they have social insurance mixed up that it can be claimed they do contribute.

MR. WEGENAST: Mr. Watts of the Canadian General Electric Company is here and would like to make a statement.

MR. G. W. WATTS: Referring to the hearing before the Commissioner on Workmen's Compensation, it being assumed that compensation for all injuries is to be paid without regard to the negligence of the workman, it necessarily follows that the cost of this will be very heavy as compared with the present law, and this extra cost will be added to the cost of the products in this Province.

I understand that the view has been repeatedly urged before the Commissioner that very few accidents are due to the fault of the workman. This is not correct as the statistics which have been gathered on this subject by the Commission sent to Europe last year from the United States point out.

A proportion of the accidents are seemingly unavoidable and this percentage will vary with the various occupations, some being more risky than others.

A proportion is due to the fault of the employer or his agent, and a considerable proportion is due to the negligence and carelessness of the workman who receives the injury, and his fellow-workman.

My experience of the matter is that the larger percentage of accidents which occur are due to the neglect of either the workman injured or his fellow-workman.

As to the question of contribution on the part of the workman to the expense, I think it is nothing but fair and right that he should contribute a proportion of this expense if he is to receive compensation for all injuries, and the question of his own contributory negligence or that of a fellow-workman, is to be eliminated when awarding this compensation.

The contribution by the workman of any portion of the expense will tend to make all such contributors vigilant in preventing accidents as they will feel that their own money is at stake and it is desirable to have the co-operation of the workman in this.

I am of the opinion that the question of concurrent insurance should have no bearing upon the payment of compensation as it should be rated exactly the same as life insurance, and if a man is willing to pay the additional expense of further insurance beyond the amount which is paid for by him in his contribution to the workmen's compensation, he should be entitled to receive that concurrent insurance.

I am in favour of a collective liability system rather than an individual one. The individual system is burdensome and cannot attain the maximum results for the workman or his family, as payment of the compensation is contingent upon the financial strength and solvency of the individual.

Two men, we will say, may be injured in an identical manner in the employ of two different firms, and both may be entitled to an identical amount of compensation. However, it is possible that one firm might be in such a financial condition that it could not pay compensation while the other firm might be perfectly able to pay theirs. The result of this would be that although both workmen could be equally injured and both equally entitled to receive compensation, one would receive compensation, and the other would not. It may be urged that this can be overcome by forced liability insurance but even this would not assure the compensation reaching the workman or his family in all cases, as it would be contingent upon there being no lapse on the part of the employer in keeping the insurance up, and also upon the continued solvency of the insurance company carrying the policy, whereas, with a collective liability properly and economically administered, all injured would be assured of their compensation and the maximum proportion of the money raised would be free for use in payment of compensation.

The present method is very wasteful as a large proportion of the money which is devoted to compensation is wasted in litigation and only a comparatively small percentage of the total can find its way into the hands of the injured workman or his family.

MR. WEGENAST: You are manager of the Canadian General Electric Company, I believe?

MR. WATTS: I am manager of the works.

MR. WEGENAST: Have you any books showing the proportion of accidents due to the fault of the workman, the fault of the employer, and so on?

MR. WATTS: I took out some figures in our own establishment for a period of a year.

MR. WEGENAST: Have you the figures with you?

MR. WATTS: I have the way it worked out, the percentage.

MR. WEGENAST: How many accidents does that cover?

MR. WATTS: Probably three hundred of all kinds.

MR. WEGENAST: How did the proportion run?

MR. WATTS: About forty per cent. represents the hazard of the industry, and probably about fifty-six per cent. due to the negligence either of the fellow-workman or the worker himself, and the balance is due to the neglect of the company.

THE COMMISSIONER: That is a very small balance.

MR. WATTS: On the figures here it works out one per cent. but I am allowing the figures for cases that were afterwards adjudged against us.

THE COMMISSIONER: Do you think if we got a similar report from the workmen the percentages would be anything like the same?

MR. WATTS: I think you would probably find if the workmen who were mixed up in the accident itself were reporting they would report it very much the same, but if some one else was passing on it they wouldn't. This is based upon the report as made by our own men and it is truthful as far as we know, but of course it might not be absolutely correct in all cases. However, the proof of that is in the fact that in the great majority of these cases very few ever went so far as claims being made, and of those claims which were made there were comparatively few where decisions were given against us.

THE COMMISSIONER: Do you mean actions?

MR. WATTS: Or demands made for compensation at all?

MR. WEGENAST: They did not even go so far as to ask for compensation.

MR. WATTS: No.

MR. WEGENAST: Do you pay doctors' bills in cases where they are not deserving?

MR. WATT: Well, in two of our works we don't pay doctors' bills. The men themselves have a mutual benefit association and that takes care of the doctors' bills, and also gives them a small sum of money, $3 or $4 a week.

MR. WEGENAST: Do you contribute to that?

MR. WATTS: We don't now. We did when it was first started. It is self-supporting now.

MR. BRUCE: You heard Mr. Boyd's figures this morning. How do you account for the large difference between his figures and the figures you have submitted, as regards the risk in the business? He said 10 per cent. of accidents were unavoidable, due to an "act of God," and he said 44 per cent. of the accidents were due to the hazard of the business, after four years of investigation. He said 18 per cent. were due to negligence on the part of the employer, and 28 per cent. on the part of the employee; and you shoulder all the responsibility over the 40 per cent. on to the employees.

MR. WATTS: Not entirely. My figures are not his. They were gathered from a different source entirely, and under different conditions. This is my own personal experience.

MR. BRUCE: I am asking the reason for the vast difference.

MR. WATTS: I don't know why. You can ask MR. Boyd yourself.

THE COMMISSIONER: Mr. Boyd was speaking of the whole matter, and Mr. Watts is only telling the experience in his particular establishment.

Mr. Wegenast: Now, what increase in expenditure will this mean to your concern, if all cases are to be compensated?

Mr. Watts: That would be pretty hard to fix, but I think it would be at least three times as much as it is now; perhaps more.

Mr. Wegenast: I do not know whether it is fair to ask you what that would mean to the individual firm with which you are connected.

Mr. Watts: It might mean $40,000.

Mr. Wegenast: Additional annual expense to you?

Mr. Watts: Yes, depending entirely on the amount.

Mr. Wegenast: You are speaking for the institution you represent? You are willing then to go into a scheme of this kind?

Mr. Watts: No, I am not authorized to say I am willing to do anything for my company. I am giving information.

Mr. Wegenast: Perhaps that was a strong way of putting it, but you have expressed yourself as favouring a collective liability system of compensation for workmen as against an individual liability system.

Mr. Watts: Undoubtedly.

Mr. Wegenast: Would it make any difference to your concern which of those schemes was adopted, and what difference would it make?

Mr. Watts: It would make a very considerable difference, but I couldn't put it in money value at the moment. It would be very heavy.

Mr. Wegenast: An adverse difference if an individual system was adopted instead of an insurance system of some kind?

Mr. Watts: Undoubtedly.

Mr. Wegenast: That is speaking entirely irrespective of the contribution by the workmen?

Mr. Watts: Yes.

Mr. Gibbons: Your place must be unduly hazardous.

Mr. Watt: Not necessarily. There are lots of accidents not reported.

Mr. Gibbons: Then being a hazardous occupation I suppose you put up notices that a man is not to do so and so, and if he does so it is considered that he has been negligent?

Mr. Watt: No, we do not lay traps for people, Mr. Gibbons.

Mr. Gibbons: Well, just along that line we were told the other night that there was a clause in your rules that gross negligence was to be penalized. That looks very innocent, but I see now that it looks very much like a trap. Then further down the line, if we come to section 7, it says the workmen should pay contributions according to the number of accidents caused through their negligence, and you come along now and say that is 59 per cent., and therefore you would expect the workingman to pay 59 per cent.

Mr. Watts: Did I say that?

Mr. Gibbons: Well, 41 per cent.

The Commissioner: He is not responsible at all for Mr. Wegenast's statement.

Mr. Watts: I did not make those statements, Mr. Gibbons.

Mr. Bancroft: An expert on accident insurance was here the other night, and he said I think in places where men were injured, where there was only the common law of the employers' liability to claim under, that claims made were only in about 40 per cent. of the number of total accidents that happened? Then where there was compensation the claims went up as high as 60 per cent. or 70 per cent., as it has been in England. Do you not think the reason why

there are so many who do not claim compensation for their injuries in a concern as big as yours is because they know they haven't the money to fight and they are in the hands of the lawyers and they let the thing go?

MR. WATTS: That has not been my experience. I have never found anybody loathe to attack our company. It has been the other way.

MR. WEGENAST: Was it in your company where the man went to sleep on the belt?

MR. WATTS: No, that was an accident that occurred in another place. A man went to sleep on a belt that was still, and he was killed when the machine started up.

THE COMMISSIONER: Was he sober?

MR. WATTS: Yes, but he was working at night and the machines were not running and he lay down on this belt and went to sleep, and the man who was supposed to have seen that everything was right, didn't see him, and the machine was started up and the man was carried under the pulley by the belt.

MR. BANCROFT: I think there was a case your Lordship will remember where a man was under instructions by a foreman, and knowing that a certain generator was not fastened to the floor securely enough he grabbed a wrench and went to make it firmer, although he had not been instructed, and he put his knee on the belt and was killed.

THE COMMISSIONER: I do not remember that case.

MR. BANCROFT: Of course they got damages, although they brought in their negligence claim, that he was not instructed, but the man seeing the machine was not fastened went to do his duty without asking his foreman, and because he did that they called it contributory negligence.

THE COMMISSIONER: It would be his volunteering to do something. There was a case the other day against I think the General Electric Company, where Chief Justice Mulock dismissed the case. The man was doing the very best thing and doing it honestly for the company, but he was not sent to do that work. He volunteered to do it.

MR. WATTS: Another workman started the machine without seeing whether the man was free of the machine, and the man was killed, and the verdict was given in our favour.

THE COMMISSIONER: I think it was tried without a jury.

MR. SIMPSON: Taking it for granted. Mr. Watts, that the number of accidents which you have enumerated are directly traceable to negligence on the part of the workmen, would you say in your industry that an act of carelessness, no matter from what source or how trivial it might be, would cover the whole risk, if it arises out of the nature of your industry, as compared with other industries?

MR. WATTS: I don't know just what your question means, but if you want to ask whether our works or our industry is any more hazardous than industries of a similar nature I would say no.

MR. SIMPSON: Would you say your industries were no more hazardous than others, such as boots and shoes?

MR. WATTS: No. if it is running machines I don't think it is any more hazardous.

MR. SIMPSON: In your foundry do they not carry big pieces of steel?

MR. WATTS: When you say our industry, there is not an equal risk in the whole of it.

MR. SIMPSON: I am referring to the Dominion Bridge Company.

Mr. Watts: In the handling of those heavy masses there is naturally greater risk than the handling of light bodies.

Mr. Simpson: An act of carelessness, whether it is big or small?

Mr. Watts: A very serious act of carelessness might result in nothing and a very trivial act of carelessness might result in considerable damage. It just depends.

Mr. Wegenast: As a business man is there anything startling, or is there anything to alarm you or frighten you, to use the language that has been used, in a system of state insurance administered by the Province?

Mr. Watts: Not from my point of view.

The Commissioner: When you stated you preferred collective to individual liability, was that on the basis of the present Employers' Liability Act, or the proposed one?

Mr. Watts: Both. Of course my experience has all been with the present.

The Commissioner: Would you prefer to come under the collective system with increased liability, or stay where you are?

Mr. Watts: Well, I don't know. I have not followed that up. I am going on the assumption that the Government is going to do something, and I am stating my views on that assumption.

Mr. Wegenast: What about this feature: The question of assessment on capitalization, or the current cost plan? Would that make any difference to you?

Mr. Watts: It would make a very great difference.

Mr. Wegenast: Would it make any difference to your willingness to see an act introduced?

Mr. Watts: I would sooner see it on the current cost basis.

Mr. Wegenast: How do you think the proposition would be received by the general public?

The Commissioner: I do not think I am concerned in that. That is for the Government. I am not going to be governed by the political aspect, using it in the broad sense.

Mr. Wegenast: I do not want to press the matter at all.

The Commissioner: I am going to recommend, when I come to make a recommendation, what I think is right, and as far as I think it is feasible. I will not recommend anything that I think public opinion would not justify, and I would not very likely recommend anything that I thought the House would not adopt. I think it would be a great mistake to have what is admittedly a serious grievance of the workingmen, to have a remedy delayed by proposing something that would not be passed, and have the thing thrown over perhaps for years.

Mr. Wegenast: Perhaps I did not go at it in the proper way.

The Commissioner: I do not think I should take evidence of that kind.

Mr. Bancroft: If a person is injured in a big industry, poorly off as generally the wage-workers are, the only way they can make a claim against the company of any kind is by consulting a lawyer.

Mr. Watts: That is absolutely not the case. We would very much rather they would not go near a lawyer. They will get more money out of us by not going.

Mr. Bancroft: Is that not generally the case, they have to make a bargain with the lawyer.

Mr. Watts: I don't know about other people but in our company we do not want them to consult a lawyer. They can get better settlements without it.

Mr. Bancroft: Have you a list of accidents and the amounts of compensation

paid? I would like to get at how many claims are made, and if they do not claim why they do not claim.

MR. WATTS: I may tell you, Mr. Bancroft, that my statement is compiled on every accident without regard to whether it is an accident that you could claim on or not. I have in view the fact that under this so-called compensation act, with all the defences swept away, that a man has got to be paid anyway, without regard to his negligence, and that a great many accidents that are reported by us to-day for our self-protection would then come in, which would not be considered accidents under the present act and where there is no compensation payable. I am taking into account the fact that they would probably come in under a new law.

MR. BANCROFT: From a business standpoint collective liability or a tax paid into state insurance, with contributory negligence swept aside, without any chance of litigation, would be a better proposition to you than what you are doing at the present time.

MR. WATTS: No, it will cost us more money, but we would have no rows or trouble or fighting with people, and no arguments, and we would know exactly where we were at.

MR. BRUCE: As has been shown, it might only be in initial instances that it would be heavier. If it was an assessment plan according to the risk of the industry, and all assessments were based upon the number of accidents, then it would probably come less to your industry.

MR. WATTS: No, it would be more even on that basis. Of course it would come very much heavier if it was capitalized on the start, but it will be heavier. You must recognize the fact when you start in to pay compensation for all injuries without regard to whether a man is at fault or not it will be very much heavier. You have got the percentage, whether my figures are right, or somebody else's are right.

MR. SANGSTER: Would the extra expense which would be raised in connection with the new law be devoted to payment?

MR. WATTS: I do not quite follow your question.

MR. SANGSTER: I mean the extra expense in connection with the new law, would that be devoted to the claims or to legal procedure?

MR. WATTS: Oh, no; as I understand it this present act if put into force would assess a certain rate upon the wage roll, and that goes into a fund which is administered by some department of the Government, and I have no doubt they will administer it honestly and then there is no law about it at all. A man has only got to come and prove his case to the satisfaction of whatever Board is appointed. The employer is out of it entirely. It wipes out all our law costs and the law costs of the individual who is suing us, and the liability company, or whoever it may be.

MR. SIMPSON: Whatever you pay for the claims for these accidents it must come out of your profits, out of your revenue?

MR. WATTS: Of course.

MR. SIMPSON: If you were to pay into a fund, which might be even more than you are paying now, and then you tacked that on to the cost of the product you would be in a far better position under the new act than at the present time.

MR. WATTS: If we got it out of our customers, yes, if we got the increased cost.

MR. SIMPSON: That is what I wanted to emphasize in regard to the assessment on the consumer.

MR. WATTS: The consumer will pay in any event in thee last analysis, or would come out of the business.

THE COMMISSIONER: Unless you are forced to live on a smaller profit.

MR. WATTS: If you keep on paying more than you are earning you have got to go out of business.

THE COMMISSIONER: If you are making 25 per cent. on your capital then you could stand a little shave.

MR. SIMPSON: I want to give you a little illustration if you will permit it. Let us suppose for a moment that the National Trust was a hazardous corporation. I read their statement very carefully in the paper the day before yesterday, and I saw that they paid ten per cent. upon the invested capital, and they put away $500,000 as a reserve fund, and another $100,000 for another fund. Now, I claim a manufacturing establishment that can show such good returns as that should be assessed a little on the profits and not put it entirely on the cost of production so that the consumer will have to pay it all.

THE COMMISSIONER: Competition.

I judge from what you said, Mr. Watts, that you have no insurance system established by your company?

MR. WATTS: No, there is a mutual benefit society, but that is not ours. There is no system of insurance in the work itself.

MR. WEGENAST: I have two or three members of the Committee who have been associated with me in the work, who would like to say something simply by way of support from a practical business standpoint. On Tuesday night I hope to have Mr. Dawson, the expert actuary from New York. He was a joint author, with Mr. Frankel, of the well-known work on Workmen's Compensation. I thought to have Mr. Preston, the draftsman of the Washington Act, but he sent me word the day before yesterday that he could not start from Seattle until the 7th February, and I have wired him that I did not know whether the sittings would continue as long as that, but I would let him know shortly whether there would be an opportunity for him to be heard. Mr. Preston is a man that I think would give considerable assistance. He is a man of few words as you can see by the Washington Act, and yet it is probably one of the most compact pieces of legislation that we have upon the subject.

THE COMMISSIONER: Requests are coming in for sittings at outside places, and I suppose I will have to comply with them. There have been requests from Hamilton and Windsor. The east has not spoken yet, but I suppose we will have to go somewhere there. Then Mr. MacMurchy, I understand, wishes to be heard, and Mr. Merrick of the Employers' Association, and I think Mr. Gander, representing the Builders' Exchange, also.

Supposing the legislature chose to adopt some such scheme as the Ohio one, either with or without the contribution by workmen, and extending it to all workmen or employees, no matter how many were employed, and if the body of the employers were practically required to guarantee to the State the payment of the contributions by all of them, or to make it up themselves, what objection, if any, would there be to that by the employers of labor?

MR. WEGENAST: Well, so far as I can see I do not think there would be any objection whatever on the part of the employers with whom I am concerned.

THE COMMISSIONER: I do not see how you can escape from having it in the power of somebody to assess the industry, or whoever is to pay the burden, for any deficiency that may occur.

MR. WEGENAST: That is exactly what we propose.

THE COMMISSIONER: That must be done to make it self-sustaining or else you throw the burden on the State.

MR. WEGENAST: I have gone so far as to draw up lists of the different classes of industries. I have a list before me of all the furniture manufacturers. To this would be added, I suppose, the manufacturers of musical instruments, so as to include all wood-working industries. Now, I think it is a reasonable business proposition that these industries should be classified in this way, and the cost of the compensation, or industrial insurance, whatever you choose to call it, assessed upon it.

THE COMMISSIONER: That would throw upon the small employer all the burden of the little ones who would not pay up.

MR. WEGENAST: I, of course, assume there would be facilities for compelling payment.

THE COMMISSIONER: You can't get blood out of a turnip. I have not considered that aspect of it, but I do not see why they should not be classified just as they are in the Washington Act.

MR. WEGENAST: Well, there is this argument that I want to refer to at a later stage, that if you classify them according to the industry you are affording better facilities for their getting together and working out uniform regulations for accident prevention.

THE COMMISSIONER: You get together as a whole body now.

MR. WEGENAST: We have attempted as a whole body to discuss preventive devices for fifty or a hundred classes of industries.

THE COMMISSIONER: There would be no objection to your dividing it as you pleased for that kind of thing, but for paying the tax I do not see why at present its rate should be stated. It may be I am not right, but that is the way it strikes me at present.

MR. WEGENAST: You mean in the act?

THE COMMISSIONER: In the act, subject to modification from time to time by such authority as the act creates, to modify it according as circumstances show there ought to be modification.

MR. WEGENAST: That would at once involve a contest over the question, and we feel very strongly upon that matter, whether the whole capitalized cost should be assessed as under the Washington Act, or only sufficient for the assessment.

THE COMMISSIONER: I do not see how that is involved in the proposition, if it is simply an annual assessment to meet the losses of the year.

MR. WEGENAST: I am quite satisfied with that, but you could not fix the rate in the act. You would have to leave it to be adjusted according to the number of accidents.

THE COMMISSIONER: You would have all sorts of trouble if you hadn't something to show the relation between the amounts which the different industries would pay. You must have something like that. My idea was to have something more like a mutual insurance plan where there would be a fixed payment, and then if anything more was required an assessment made to meet that based upon the amount, or proportionate to the amount of the original contribution, and if there was a surplus it would either go to a reserve or emergency fund, or whatever you might call it.

MR. WEGENAST: There is this further aspect to consider. Those rates in the Washington Act are approved by the actuaries as being somewhere nearly right in this business, and if you put the rate at twenty per cent., as they have found in Germany—start at twenty per cent. of the ultimate rate—there would be at once an awful howl that this act was absurd, that it wasn't enough to carry the risk and you would have to explain to all the actuaries your reasons for adopting the

other plan of insurance, whereas, under the plan of Mr. Boyd of the Ohio commission it is left for the Insurance Board to work out with actuarial expert advice. After all it is an actuarial matter and not a matter to be discussed in the legislature, or perhaps in a Commission of this kind. It is a matter for expert actuaries. I was particularly struck with that feature. I had not followed it out to any extent before, but it appeals to me very strongly speaking off-hand. The Commission or the Board, whoever they would be, would be responsible for the success of the institution, and there would be no doubt men selected who would give it the requisite attention, and men of the requisite capacity to make it a success, and it could very well be left to them.

THE COMMISSIONER: If I were a manufacturer I would not want it left quite at large that way.

MR. WEGENAST: I think, speaking off-hand, we would rather have it in that form.

THE COMMISSIONER: If I were Prime Minister I would not want it that way.

MR. WEGENAST: It would avoid criticism to leave it out.

THE COMMISSIONER: I would not be willing to leave it to any Board that was appointed. They would make ducks and drakes of the whole scheme.

MR. WEGENAST: Well, they could do that in any event. It is the old question of tying down the administrative body. It must have powers of adjustment, and whatever rates are fixed in the act must necessarily be only approximations, and they must necessarily be subject to adjustment, and for that reason I should think it might be just as well to go further and avoid criticism by leaving the details to the actuaries.

THE COMMISSIONER: However, I am only discussing this on your argument that insurance is the proper thing. Of course that is not settled yet.

NINTH SITTING.

LEGISLATIVE BUILDING, TORONTO.

Friday, 19th January, 8 p.m.

PRESENT: SIR WILLIAM R. MEREDITH, *Commissioner.*
MR. W. B. WILKINSON, *Law Clerk.*

THE COMMISSIONER: I understand the Employers' Association wishes to present a statement.

MR. J. G. MERRICK: Your Lordship, I represent the Employers' Association of Toronto, an organization that is somewhat allied to and probably embraces a considerably larger field among the smaller employers of labour than the Canadian Manufacturers' Association. In addition to those engaged in some process of manufacture we also have in our membership organizations such as the pavers and general contractors, outside of most of those engaged in the building operations, which are under the Builders' Exchange. The general argument advanced by the representatives of the Canadian Manufacturers' Association is agreeable to us. We

have been working more or less in unity, because in a discussion of this nature there are certain well known principles which require to be incorporated in an Act of this character, and which are recognized as being advantageous both to the workman and employer. Mr. Wegenast has outlined these to our entire satisfaction. I have read over his brief with great interest, and he covers in an elaborated way practically all the principles that we decided upon. There is one matter which I think has not been alluded to here, and that is the number of accidents which have taken place in this country during the past year, and I have taken from the *Labour Gazette* the reports of the accidents taking place in Canada, and I have compiled a statement of them under their various classifications, which may be of interest as showing the ratio in the different employments.

Statement of Employers' Association of Toronto.

To the Commissioner appointed to consider the subject of Compensation to workmen for injuries sustained in the course of their employment.

Sir,—It is generally conceded by those who have made a study of comparative legislation with regard to Workmen's Compensation, that the Act at present in force in Ontario is unsatisfactory, inadequate and by reason of inviting litigation, wasteful. It would seem, therefore, to be the duty of those who are more or less brought in contact with accidents of this character to assist in framing a measure that would meet the requirements of our industrial life, and one which, at the same time, should not bear too heavily on provincial industry.

In a complex question such as this it is advisable as far as possible, to establish the principles that should underlie a measure of this character. We submit the following suggestions which we believe should be material to the framing of the act and incorporated in its provisions.

1. *Workmen's Compensation preferred.* The act should be framed along the lines of Workmen's Compensation and not of Employers' Liability.

2. *Efficiency and Economy.* The system of compensation should be efficient and economical, and as large a proportion as possible of the amount paid by either the employer or employee should actually be paid out in compensation.

3. *Joint Contribution.* We believe that compensation should be provided by joint contribution from both the employer and workman such as may be found to be equitable in view of the relative number of accidents occuring by reason of (*a*) hazard or risk; (*b*) fault of employer; (*c*) fault of employee.

4. *Question of Negligence.* We are of the opinion that all accidents should be the subject of compensation from the fund contributed to for that purpose, but that gross carelessness, drunkenness and wilful disobedience to orders should be penalized in some way.

5. *Periodical Payments.* The amount awarded in compensation should be paid periodically and not in a lump sum. It should be made, as far as possible, a substitution for the wages of which the injured workman and his dependants are deprived by the injury.

6. *Compensation should be Sure.* It is impossible through ordinary channels to be assured of the continued solvency of the employer. Some provision should be incorporated, however, which would guarantee compensation being paid in the event of failure or other cause.

7. *Expert Supervision.* If a general compensation plan is decided upon it should be supervised, enforced and the rates adjusted by experts similar to those employed by insurance companies. Administration of the system should be on ordinary business lines as distinguished from the procedure in the courts of law.

8. *Relief from further Liability.* The system of compensation adopted should relieve employers from any other legal liability.

9. *Burden of Compensation.* The cost of compensation to employer or workmen should not be made heavier in Ontario than in any other of the Canadian Provinces.

10. *General Application.* The plan adopted should embrace all employers and workmen in the Province.

It is conceded that it would be advisable both to employer and workman if some basis of compensation could be arrived at which would be so certain in its operation that it could be contemplated at the beginning of the term of employment. The right of an employee to compensation and the amount in case of injury could be known in advance, and the liability of the employer being ascertained, could be dealt with as a constant factor of expense in the ordinary course of business.

It is most desirable that the uncertainty of compensation through litigation should be removed and the ascertainment of the payment of compensation should be made as nearly automatic as possible. The trend of modern legislation has generally recognized the claim of the workman to compensation for injuries incurred outside those resulting from the employers' negligence. This has been largely brought about by the consideration of the causes of industrial accidents and the desire of providing legislation that would more nearly coincide with existing conditions than with theories of employment.

It has been established that it is almost impossible in a number of cases to apportion the responsibility for accidents. Statistics covering a number of years and embracing a large number of cases under the German system have established the following ratio of causes of accident:

Fault of employer	17.30%
Fault of workman	29.74%
Fault of both employer and workman	4.83%
Fault of fellow-servant	5.31%
Unavoidable accident	41.55%
Act of God	1.27%

Contribution to Fund by Employees. If it is decided to recommend legislation increasing the amount of compensation, and over a wider field than is at present the case, it is desirable that employees should contribute to the fund out of which the compensation is to be made.

It has been established that such a plan would remove the idea of charity and

would put the employee on a basis of independence with reference to the amount coming to him for injury. It would also be conducive to the exercise of care on the part of the workmen knowing that while the injured person would be compensated, part, at any rate, of the cost of the accident would fall on the employees generally. It is also certain that it would reduce the number of fraudulent claims and malingering for the reason that honest, conscientious workmen would have a personal interest in the fund and would be on the look-out for such cases.

It may be of value in the present connection to include here the industrial accidents that have taken place in Canada during the past twelve months to December, 1911. These are classified under different headings and embracing all occupations.

Trade.	Killed.	Injured.	Total.
Agriculture	150	179	329
Mining	119	122	241
Lumbering	75	110	185
Fishing and Hunting	25	1	26
Transportation—Railway	193	292	485
Transportation—Navigation	33	131	164
Transportation—Electric Railway	104	36	140
Miscellaneous Transportation	3	11	14
Railway Construction	15	19	34
Metal Trades	95	376	471
Building Trades	74	188	262
Wood Working Trades	10	108	118
Food and Tobacco	10	44	54
Textile Trades	4	17	21
Clothing Trades	2	9	11
Printing Trades	....	13	13
Leather Trades	....	8	8
Unclassified Skilled Trades	58	101	159
Unskilled Labour	80	134	214
Public Employees	15	87	102
	1,065	1,986	3,051

While these industrial accidents cover the whole of Canada and are reported in all occupations, still for the purpose in Ontario they can be used as an illustration of the proposition that will likely be found to obtain in the various trades and occupations classified. It is fair, however, to assume that this will probably embrace all the serious accidents, but that many of a minor nature go unreported.

The Compensation Rate. It will be a matter of extreme difficulty to adjust the scale of compensation to the various industries when considered from the viewpoint of the interests involved. One of the fixed points of a compensation plan should be that it should operate equally and uniformly in respect to all workmen included, and not unequally and discriminately according to the financial position and occupation of the employer. Its provisions should also be of such a nature as to be applicable to every class of industrial activity.

The history of pension legislation would indicate that if there is any alteration in the original rates, it is to be expected in an increase rather than in a reduction. So that an initial rate should, as a matter of policy for compensation, be a moderate one. It could be also urged in fairness, that if the employer is to be made responsible for injuries beyond his fault that the burden imposed should be reasonable and not exorbitant.

THE COMMISSIONER: In the figures you have given is there anything to indicate the extent of the injury?

MR. MERRICK: No, it is just a bald classification, and I would not like to urge that any great reliance should be placed on this tabulation, other than probably the comparison of the amount of risk that is liable to be incurred in these different occupations. There may be probably some correspondents who have overlooked injuries of one kind and another, or injuries may have been of such a trifling nature that they have not been reported.

THE COMMISSIONER: What is the source of the correspondents' information? Just what they can pick up?

MR. MERRICK: I think so. That is all they put forward.

MR. DOGGETT: Were those figures you submitted for all Canada?

MR. MERRICK: Yes, just for the year, to the end of December.

THE COMMISSIONER: In your organization have you any rule about your members reporting accidents?

MR. MERRICK: No, we have not. I do not think there is any organization that has a regulation of that character.

THE COMMISSIONER: I suppose a great many are not reported at all?

MR. MERRICK: The accidents of a more or less trivial nature are practically tried on the spot, or looked after by the employer himself, who pays the doctor's bills and wages, and they are never brought to the attention of the public officials or the correspondents of the *Gazette*.

THE COMMISSIONER: The Factory Act requires every accident to be reported.

MR. BURKE, (Factory Inspector): Yes, within six days.

MR. GIBBONS: I do not think the figures can be correct. You gave some figures as to the number of injured. I think there must be that many injured here every week. The Toronto Railway Company would think they got off lightly if they did not have more than that every week.

MR. MERRICK: These are industrial accidents of all kinds.

THE COMMISSIONER: Mr. Burke says they have reported in this Province alone over a thousand accidents.

MR. BURKE: That is accidents that would come under the Factory Act.

MR. MERRICK: My grand total is 3,051 for the Dominion.

THE COMMISSIONER: If this insurance plan were adopted would it not be very difficult to get at the small employers of labour?

MR. MERRICK: Yes, in one sense it would, for this reason, that as my friends on the other side know there is a steady graduation from the ranks of labour into the ranks of employers going on all the time. That is largely confined to the smaller classes of employers of labour, and from their successes generate, in a great number of instances, into larger firms. Now, the lives of these small employers vary. At least the lives of their firms vary very considerably. Some keep in business for a few months and then they relapse back into the ranks of journeymen. If they succeed, in the initial stages they hire very few men. They are usually working combinations of two or three workmen, and as the business expands then they hire men.

THE COMMISSIONER: They would be partners, practically.

MR. MERRICK: Yes, but as their business expands they engage other help. This is particularly the case with regard to such employments as the plumbing trade, or the glazing trade, or the painting trade, where very much capital is not required in order to set up in business.

MR. WEGENAST: There is a provision in one of the acts, I think it is the

State of Washington, where the employer is allowed to come in if he is on the pay-roll.

THE COMMISSIONER: Yes, but just what that means may be uncertain. I suppose there are a number of the smaller industries where the employer works alongside of his men.

MR. MERRICK: Yes, in most of the smaller industries they do that.

THE COMMISSIONER: There is a pretty fair-sized bricklaying firm, Ham & Reid, and they both work along with their men.

MR. MERRICK: It is very difficult in the early stages to really classify them as employers or as journeymen because they fluctuate to and fro.

THE COMMISSIONER: If Mr. Wegenast's idea were carried out in an insurance scheme, could the men you are speaking of be depended upon to bring in a report on the men that weren't coming in to pay up?

MR. MERRICK: The only way they could really be brought in I think is under some penalty regulation.

THE COMMISSIONER: What use is a penalty if a man has nothing?

MR. MERRICK: It is a question of his continuance in business. If it was an obligation which threatened the security of his business unless he did so, that would be an inducement for him to report.

THE COMMISSIONER: Do many of these smaller men join your organization?

MR. MERRICK: Yes, some of them do, and they lapse back into the ranks of journeymen. It all depends on the prosperity of the country at the particular moment.

MR. WEGENAST: What would you think, Mr. Merrick, would be the prospect of these smaller employers voluntarily availing themselves of the act, if provision was made for them by way of insurance?

MR. MERRICK: In what way?

MR. WEGENAST: Take the case of a partnership, say two men carrying on the plumbing business with perhaps an apprentice. Would they pay in on their pay-roll and thus insure themselves and the apprentice?

THE COMMISSIONER: Not making it obligatory?

MR. MERRICK: I am rather inclined to think they would not, for this reason, that generally the attention of men of that character is concentrated almost entirely on either following their business, or acquiring new business. They have not the purview of a larger employer, and they may not be sensible to the risk they run.

THE COMMISSIONER: I suppose they think they can insure themselves?

MR. MERRICK: Pretty nearly.

THE COMMISSIONER: Has it ever been thought under an insurance scheme it would be practicable, supposing you did not adopt the plan of compulsory contributions, to allow him to contribute and give him a larger indemnity if he did; would that be practicable on a business line?

MR. WEGENAST: We went into that somewhat thoroughly. It was a favourite idea of Mr. McNaught's, if I may use his name in connection with it, and it has been carried into practice by Mr. McNaught in his own watch case establishment. He insures his men under a collective policy for, I think, $1,500, which is allowed by the Employers' Liability Act in this Province, but if the men contribute a small additional premium by way of deduction from their wages they are insured for an extra amount. He works the thing out in such a way as to make it some inducement for them to take the additional insurance, but we thought a general scheme of that kind woud not be made use of by the workmen. The class of men for whom

this legislation is intended is not the class of men who set aside even a small amount.

THE COMMISSIONER: Would not the men getting up in years, or the men with families be likely to avail themselves of making that small contribution, when perhaps the single man might not feel like doing it?

MR. WEGENAST: Yes.

THE COMMISSIONER: The doubt I have is whether it could be worked as a business scheme so as to get a proper financial basis for it.

MR. WEGENAST: Yes, and the man who might do it at one time might drop out, and there would be a great difficulty in simply the book-keeping end of it so as to know when the man was insured, and when he wasn't insured for the extra amount. So long as you leave it voluntary the large proportion will not take advantage of it.

THE COMMISSIONER: Well, who would the workman swear at when the ten per cent. was deducted from his wages?

MR. WEGENAST: He would likely swear at the employer.

THE COMMISSIONER: Or the State that did it?

MR. WEGENAST: No, I think he would probably swear at the employer, but I am anticipating something I was going to say later, that their irritation may be the means of inducing an amount of care or an amount of attention on the part of the employee which could not be evoked without it. Then there is always this possibility, that the employer might not take advantage of it, because I think the large majority in fact of the larger employers at all events would find it to their interests not to collect that amount.

THE COMMISSIONER: Now, is that not cutting away one of your arguments?

MR. WEGENAST: Yes.

THE COMMISSIONER: Then the inducement of the man to be careful for himself and fellow-workmen would be gone.

MR. WEGENAST: I am suggesting a section something like this, a section allowing the employer at his option to deduct a certain percentage of the insurance premium from the wages of the workmen, on due notice to the workmen that that was going to be done, or on notice to the workman on entering his employment. Now, the way it would work out practically I think would be this. The large employer would not probably enforce the provision for reasons that need not be gone into now, but he would have it to hold, as it were, over the workmen. Supposing he found an amount of carelessness in using certain appliances, or whatever the carelessness consisted in, he could post up a notice saying if this rate of accidents kept on, or if these regulations were not enforced, whatever it was that he wanted to bring home to the workmen, the rule as to contribution would be enforced. Or he could call his employees together and could say, now, the accident rate went up in my shop so and so, and the rest of the employers in my class are complaining and they are going to put me in a higher class or in for a higher rate, and if that is done I will have to charge this percentage against you; I will have to put that rule into force. It would be a most elastic way I think of bringing the importance of preventive care home to the employees themselves.

THE COMMISSIONER: Does the employer, where a man continues to disregard his own safety and that of those who are working with him, ever exercise his right of saying we don't want you any more?

MR. WEGENAST: If he does he is subject to the danger of a strike. There is that always to be considered. If the reasons for dismissal are not approved of

in the eyes of the Union to which his workmen may happen to belong, he is always up against that difficulty.

THE COMMISSIONER: You see in so many of these cases the carelessness of the man not only involves himself, but those who work with him.

MR. WEGENAST: Yes, there is also that feature to be considered. It is an idea of my own, but it looks to me like one of the easiest and most elastic, and most salutory forms that the contribution from the workmen could take.

MR. BANCROFT: Mr. Merrick, do you represent most of the Employers' Associations all over Canada?

MR. MERRICK: Oh no, Toronto and some towns in Ontario.

MR. BANCROFT: I was going to ask you if the manufacturers or employers in Manitoba, Alberta, Saskatchewan or British Columbia in framing up the acts they have, which are largely on the British plan, ever suggested contributions from the workmen?

MR. MERRICK: I couldn't state that.

MR. WEGENAST: I would like now if your Lordship would hear Mr. W. B. Tindall. Mr. Tindall is a member of the committee under which I have been working, and is in touch with all the proceedings, and would like to make a statement as to the attitude in general.

MR. TINDALL: Your Lordship, and gentlemen, I have only a few remarks to make. I take it that Mr. Wegenast has presented the matter pretty fully as regards the act, the reasons for the act, and the outline generally, and it is hardly worth while taking up time in going over the ground that he has probably gone over, working under he instructions of the committee to which I have the honor to belong. There are several features of it, however, that it seemed to me your Lordship might care to hear. I presume it will be looked upon if such an action is taken, and if recommendations are made, that the solution of this vexed question of workmen's compensation for injuries in the hazards of the different occupations that a workman may be engaged in should take the form of a State act, or State insurance form. Then the members of the legislature would want, and quite properly so, that they would be backed up by public opinion in order to satisfy them in their minds that this would be a satisfactory solution to the majority of the people under whose suffrages they were representatives in the House of Parliament that might be deliberating on this question. Now, I take it that the evolution that is going on in the world at the present time is altering matters to a very great extent. I refer to this because I can hardly take it, that although there is a difference of opinion maybe between labour and capital, that there is an actual conflict between labour and capital. It seems to me that labour is just as much interested in having this in a proper and right form as capital is. Moreover, I go further than that. I say as it appears to me, looking back from my knowledge of business for thirty or forty years, that it is in an altogether different shape. Capital has assumed to-day and is to-day in a very much different shape than what it was in those times. My father happened to be somewhere about 1820 on the continent of Europe, engaged with one of the best engineering firms that ever started in business there. Now, in his day the majority of the manufacturers were private individuals. There was very little company organization in those times. It was generally the father and the son, and the business was transferred down, and the difference of opinion between labour and capital came directly between the one man who had the money and the other man who did the work. Now, to-day evolution has changed things both here and in the United States. I do not think there are any of us that take the public press, but can see the enormous progress that is being

made in this way, that nearly every undertaking is formed on the joint stock company principle. That means that a large amount of shares, from $50 to $100 is offered to the public generally, and I take it that any thrifty workingman who saves his money is looking for a safe investment for that money, and that investment to a certain extent is in the purchase of listed shares in such companies as are listed on the Stock Exchange, or private enterprises that are not listed. So these men may be working in a shop and still be the capital. He may be the employer as well as the employee, and in several cases I know of that condition of things obtains. Therefore if this goes on and if the thrifty man, the man who is putting his money by and getting his returns, has got to look for investments, he is going to make his investments in joint stock companies or banks, or other things that furnish a means for him to do that. Take banks, for instance. Our banks to-day are in this position, that the workingman who has got his money deposited in a bank is vitally interested in the life of every concern in this country. There is not a bank in the country that is not financing to a larger or less extent all kinds of industries, and to-day, if the banks did not finance those industrial concerns they would cease to exist, they couldn't get on in the way they are doing, and consequently the men could not get work because they would not have the means to employ them. Now, he is interested in that. He is interested that nothing should be done that would interfere with progress and of capital getting a right and proper return so that there may be profits in which he can share. The idea I want to convey is that he is more interested than one would think in the other side of the question, at which as a general rule he is not looking. The whole State all the way through is interested in a proper solution of this question. I think the majority of men to-day who think and who read will concede that there are hazards incidental to every industrial occupation, and more so with those in which machinery is more or less used for the conversion of a raw product into a manufactured article. A man says: "Here I am living in this country and in this community, and some portion of this community has got to furnish me an honorable employment for my time at an equitable rate." He cannot get a rate beyond the amount that that industry can profitably pay. You cannot put a greater burden on an industry than it can bear. So the question turns around in a circle. Those who can remember some years back will know that our rate of living is very much higher now than it was, and it is all brought about possibly by this condition of things, more or less.

I have not come across any of my colleagues in discussing the matter at any of our Association meetings, who expressed an opinion adverse to the general broad principle laid down that the workman who is injured is entitled to compensation, is entitled to a proper compensation, and to a compensation that is given by the manufacturers willingly and liberally. Then the whole question that we are now trying to solve is how this compensation shall be given with the least amount of practical difficulty, and that will work out for the benefit of the men, and that will not be too great a burden on the industry. Those general principles all the way through, outlined by Mr. Wegenast, seem to me to furnish a fairly good way, if carried out and worked out in detail, to solve the difficulty. One thing that struck me more or less in the deliberations I have been at, is that our friends of the labour side of the house seem to think that it would be better that they should not contribute to this State fund. If it is going to be managed by the State then the act should be framed in such a way that the fund should be available to every workman, no matter what his class may be, and if he wants to come into it and contribute to the fund, he should get the benefit of the fund. I have not been at

all the deliberations here and I do not know how far evidence has been brought in on that, but I know that the suggestion has been made that several of our very large manufacturing establishments have schemes working very satisfactorily both to themselves and to their own men, and it was suggested that possibly those might be retained in lieu of any state act that might come in. My contention on that is that I do not see how you are going to practically work that out. It seems to me the solution of the difficulty is altogether a state act, or very much as we are going on now. I do not see how you are going to take part of an industry, or portions of those industries, and have them manage that part of the industry and the state the other part, and have it work out any way economically for the State or the people who are getting the benefits from it.

Another thing, it seemed to me that the Government was the best medium of taking care of these things. It has always seemed to me that such things as insurance and schemes of that kind were a proper function for any Government to take up, and I think originally should have been taken up by the Government rather than by private enterprise. It seems to me if there is anything that is proper for Government control and Government handling it is these Workmen's Compensation Acts, and sick benefit schemes, and all that sort of thing. Now, if that is taken up then I take it that all the parties that are going to benefit by that should contribute in some way or another. The extent of the contribution would have to be worked out, but I cannot see any difficulty in the way to the workingmen contributing. I know in our own works, not as far as the iron work is concerned, but as far as our wood-working industries are concerned, they have schemes, and I am connected with several of them, and I have spoken to our men a good deal about it and nearly all of those I have spoken to prefer contributing to it. They voice the opinion to me that they would rather contribute than not. It seems to me if I were a workingman that that is the position I would take, that I would rather contribute to it than not contribute to it. The contribution can be arranged in such a way that it will not be a burden to the man, and as to the means for collecting there should not be any difficulty. I know in the iron works some years ago the men got up a scheme of their own by which they wanted to have the benefit of the scheme for themselves. We said we were perfectly satisfied with that. They wanted their own officers, their own treasurer, and their own secretary. We did not interfere with it in any way, only they asked us to allow them to collect the money for it on the regular fortnightly pay-roll, and that was deducted. That worked along for a time but it did not work out altogether satisfactorily, because a certain number of the men did not agree with some of the details. Where the thing broke down was, they had a meeting and they elected a doctor that was to attend them in the case of sickness or injury. Several of them got injured and they had medical men of their own, and they wanted to have him instead of this man they all had agreed upon, and consequently one wanted to drop out and the next one wanted to drop out, and it did not work out. But that was not any fault of the system. It was just because the men could not agree, and were not satisfied to go on. It seems to me if the state takes hold of it in any way it should work out practically and economically for all persons concerned. I cannot see that any one would argue for a moment that you can get these schemes without any trouble and without any difficulty. There will be difficulty, but I do not think any of the difficulties are insurmountable or any that cannot be got over.

I do not know that I have anything further to say than this, that I noticed an article in the *Accountants' Journal*, of England, which is the authority on such matters. I haven't got it with me, but it was about some trouble and diffi-

culty that they have met with in England. The editor was discussing the proper auditing of what he calls clubs over there. Now, it turned out they had two cases in the police court. Over there in one of these large industrial concerns the foreman of a factory was the treasurer of one of these so-called clubs, and the men who were working under him subscribed to the club so many shillings or pence a week, and they were to loan this money out. They were to have so many members. It was something on a building and loan association scheme the same as we have had in this country, but this money was loaned not for the purposes of building a house or for buying a house, but for tiding the members of the club over any difficulties they might be in through sickness overtaking them, or wanting some money for household purposes, or something of that kind, and I think in three or four cases the result has been most disastrous. This man had got the money, and he was not a man who was used to handling money carefully and well. In one case the man did not consider it was necessary that he should keep books of any kind or nature, but as a friend of mine once told me, who was leaving a business that he had been used to and embarking into the lumber business—he said "Mr. Tindall. I can't understand why there are so many books necessary. When I kept hotel all the money that came in I put in one pocket, and all the money I wanted to pay out was in the other pocket, and when the pocket was empty that settled it. I said, "You can't run a lumber business that way." and he found out that he could not run it in that way, although he tried it. Now, this man kept his books in the same way, with the result that when the end of the year came instead of their being any funds to divide among the different members of the club and have some profit out of the two shillings and a penny a week, or whatever they paid into it, they found the funds were all gone, and the man had a police court case hanging over him. This was not the only case. They pointed out this was a thing that was prevailing. These clubs I am speaking of are not registered. There is a Benevolent Clubs Act, or something of that kind, and they are registered in England. It is under the Friendly Societies Act. These companies are outside the Friendly Societies Act, and this editorial points out there was no way of getting at them, and furthermore they pointed out the greatest difficulty they had was the influence that the foreman had over these men, that these men felt if they did not contribute to the club of which this foreman was treasurer that they might look somewhere else for work. Now, that was something the employer had nothing whatever to do with. These foremen were not representing him, they were representing themselves, but they used their positions, and that shows one of the many phases of this question.

Mr. Bancroft: I was just going to say, your Lordship, while we are on this subject that I would like to point out this little bit of evidence that was put before the Employers' Liability and Workmen's Compensation Commission in the Senate of the United States by Mr. Miles Dawson, the actuary that we have heard quite a little about already.

The Commissioner: He will be here on Tuesday evening.

Mr. Bancroft: I just want to draw your attention to this. He was speaking of the German system, and what had happened there. Senator Chamberlain says: "Your proposition is not to tax the general public, but the owners of businesses to be regulated in accordance with the pay-roll, as they do in Germany?

"Mr. Dawson: Precisely; that the central Government should levy the tax on all employers, or all employers of the particular class that you embrace in your law. You will not need to pay attention to any restrictions to interstate com-

merce whatever. You will find this power is not limited by the enumerated powers of the Constitution. It is an excise tax a tax that may be collected from all engaged in that occupation, corporations or individuals, and should be a tax in proportion to the hazards of the occupation, and upon its pay-roll.

"Mr. Brantley: Would that be a direct tax?

"Mr. Dawson: It would not be a direct tax. It would be an excise tax. I am giving you ample authorities on that.

"The Chairman: Does you scheme include any tax on the employee?

"Mr. Dawson: That is with you. In my judgment no tax should be levied on the employees to pay the consequence of accidents arising out of, or in the course of employment. It would be wiser, however, to have this extend so as to protect employees against non-occupational accidents as well: possibly against sickness also: and if that were done, undoubtedly a tax should also be levied against employees. It may be wise even to do so in other cases. Personally I do not recommend it.

"Mr. Moon: In Germany, there is a tax on employees?

"Mr. Dawson: It is only because they insure them against sickness and non-occupational accidents."

Then just another quotation:

"The Chairman: May I interrupt you there?

"Mr. Dawson: Certainly. yes.

"The Chairman: Do you think it is wise in this scheme to impose a tax upon the workman as well as upon the employer? In other words, would it tend to make him more careful?

"Mr. Dawson: In my judgment, if you only provide for the payment of compensation to the workman when injured because of an accident while at work, *i.e.*, arising out of his employment, you ought not to assess any portion of the tax upon the workman, because to start with, that is not the way to get it into the price of the product, except by his forcing wages up, which is an unpleasant way; second, because if you did so, the portion of it which you would impose on the workman would be so small (and that has been the experience in other countries) as not to have any marked effect in that direction. I am of the opinion that the great public purpose we have been discussing calls for the civilized method of dealing with this, which is to protect the workman of the United States against the effects of sickness, and non-occupational accidents as well, through these associations, in which case they should be required to pay a tax, and I may say that in such case they will not only pay the tax, but they will pay it willingly and enthusiastically, with an amount of acclaim which it is not possible for the gentlemen within the sound of my voice to credit at this time. The workmen of the United States are standing day after day, as to themselves and their families, under the shadow of disaster. The conception of this matter as dealing with industrial accidents is already a mistaken one, and we, as the most civilized country in the world, absolutely in the van in the most important respects, ought not to tail in behind the rest, but should go clear to the front.

"The Chairman: I think you are quite right in saying workmen would quite willingly contribute to this.

"Mr. Dawson: They will not, in my judgment, contribute willingly to any considerable amount to a fund out of which injuries and deaths due to industrial accdents are compensated.

"The Chairman: My observation has been that poorer people are more willing, and they always have been, to help one another.

"Mr. Dawson: But they will not willingly contribute to any considerable extent to a tax which is raised purely for the purpose of covering industrial accidents. That has not been the experience anywhere in the world, and I am sure will not be here. But if it is made a comprehensive, civilized plan for keeping working men and families out of the poorhouse when disaster comes upon them, they will not only contribute, but they will contribute with an amount of satisfaction and enthusiasm which will be absolutely astounding to some people in this country who think workmen would regard it as tyrannical."

That is his statement before the Senate.

THE COMMISSIONER: I suppose we will see in a year or two, in the working out of Lloyd-George's Bill, how that will work out.

MR. WEGENAST: I am quite in touch with Mr. Dawson's views on that. I was under the impression, not when I asked Mr. Boyd to come, but sometime afterwards, that he was absolutely opposed to contribution on the part of the workmen, and that the section in the Ohio Act had been inserted against his wishes. I don't know how I got the impression, but that was my impression. It is a matter of no concern to me particularly whether Mr. Dawson, or Mr. Boyd, or Mr. Preston, or any other men we might bring before your Lordship, believe in contribution or not. So far as our Association is concerned, I think I can safely say we have an absolutely open mind on that as well as anything else, and I can quite conceive of the attitude of the New England manufacturers to whom Mr. Boyd has referred as being entirely opposed to contribution. There are other factors entering into the question with which I am afraid our labour friends have not reckoned. It looks at first blush that here was something to fight over and fight to a finish, but it is not the attitude with which we are approaching it at all. I am willing to place my arguments, so far as I have any, before your Lordship, and before the men, and in fact leave it to the labour men themselves to say whether they are just and reasonable.

MR. BANCROFT: I think, Mr. Wegenast, it would be fairer if you stated the employers from the actuarial standpoint are interested, and from our standpoint the one thing that is important is whether the workmen's wages shall be deducted or decreased, and Mr. Dawson says in no place in the world is that acceptable willingly, or has been, to the working class.

MR. WEGENAST: You have not given his qualifications to that in making your statement, but I do not think it is of any particular importance.

THE COMMISSIONER: He will be here to speak for himself.

MR. BANCROFT: I do think, your Lordship, when it was the working class who brought this up, who asked for the Commission, and who asked the Premier for quite a while before it was appointed, to appoint the Commission, and after the Commission was appointed have done all they can to bring evidence, that it should not be thought or said that we have not taken this thing in a serious light. We are not looking at it from the working-class point of view alone, but we have a right to defend what we think are the serious considerations of the working-class of this Province.

MR. WEGENAST: I do not think it is quite fair, your Lordship, and I do not think it right that the inference to be taken from Mr. Bancroft's remarks should remain unchallenged. The inference has been brought out here on a number of

different occasions, beginning at the first sitting, that the manufacturers in this matter were either insincere or did not appreciate what they were doing. I have myself, I think, cast no doubts upon the sincerity of Mr. Bancroft, or the other gentlemen representing the labour interests, and I do not think there is anything of that kind called for as far as our Association is concerned. We are willing to leave the matter, as I said, absolutely open, and we want to be credited, if it is possible for the gentlemen opposite to credit us, with an absolute desire to have this matter adjusted in such a way as to be satisfactory, not only to the labour people, but to the employing interests, and to the public at large.

MR. BANCROFT: We want you to credit us with those same sentiments, and there will be no trouble. You said just a little while ago that there were many things we have not thought of. Well, it is all right if we haven't: but point them out.

MR. BOYD: Your Lordship, in regard to this matter of opinion as to why these New England people do not want the employees to contribute to the fund, and the Middle States employers do want them to contribute to the fund, quite a number of the attorneys for the employers give their reasons why the New England employers did not want them to contribute, and they base it upon this reasoning: that if the employees contribute to the fund then the Board in making the awards out of a fund to which the employees have contributed will make a more liberal award, and would off-set the amount of his contribution by a larger award, and when you take all the awards together it would more than make up the amount he would contribute to the fund, and therefore they prefer the workman should not be a contributor to the fund. Now, that is advanced by attorneys who are paid to guard the interests of employers.

MR. WEGENAST: I am calling attention to this, that in Germany during the past session of the Reichstag, against the strenuous opposition of the representatives of the labour interests, and on the proposal and with the support of the whole employing interests, an amendment was brought in by which the employers were to contribute one half of the premium to the sickness fund instead of one third as they had formerly. The new German Act now calls for a contribution of one half from the employer and one half from the employee, and this, as I say, was the proposal of the employing interests, and was bitterly opposed to the labour interests.

THE COMMISSIONER: On what grounds?

MR. WEGENAST: On the ground that by reducing the amount of contribution from the workmen the workmen would be deprived to that extent of the control of the fund. There had been for some years, a considerable period of years back, an agitation against the administration of the sickness fund. It had fallen into the hands of the socialist organizations, which are in Germany, of course, a large political factor. It was found that the meetings of the Boards of the Sickness Insurance Organizations were really an avenue of a socialistic propaganda, and were generally obnoxious on that account to the employing interests, and consequently the demand was made, and the measure was carried through, and it is now in Germany that the contribution is in the proportion of half and half.

THE COMMISSIONER: It is not difficult to understand the motives of both sides, is it?

MR. WEGENAST: No. I simply throw that out as a suggestion, with regard to the suggestion here.

MR. GIBBONS: It wasn't a matter of generosity on the part of the employers.

Mr. Bancroft: He wanted to get more representation on the Board.

Mr. Wegenast: There is just that feature. It was brought to my mind by the statement of Mr. Boyd that in New England the disposition was to keep the contributions of the labour interests out of the thing altogether for the sake of having a larger measure of control. Now, I do not want to argue for or against that view.

The Commissioner: That is hardly it. It is thought the sympathies of the Board that made the awards would go out in a larger measure to them because they had contributed. It was rather that way.

Mr. Boyd: Yes.

The Commissioner: That would not be a judicial Board, then.

Mr. Boyd: No, but the Board is a Board, and the Board is made of men, and men will do what human nature prompts them to do, whether they are judges, or whaever they are. This is based on an experience of 40 or 50 years. I don't say that is my opinion, but I say that it is the opinion of these men who are paid $10,000 and $12,000 and $15,000 a year to advise the employers as to policy, and yet there is that diametrical conflict between the Eastern employers and the Middle States employers. So that the matter of opinion is not grounded upon narrow mindedness: it is grounded upon the extent of their actual knowledge as to how things worked out.

Mr. Wegenast: My point, your Lordship is this, that where the workman contributes he will demand a larger share in the management, and a larger say in the disposition of the funds. Now, that is an argument against me.

The Commissioner: How can you have that if you have a Board of three?

Mr. Wegenast: If he cannot have it any other way it will be by raising his voice in the public press and by making his influence felt by deputations to the Government and such other methods of propaganda——

Mr. Gibbons: He has not money to keep a man lobbying all the time.

Mr. Boyd: Why, with us the labour organizations are more strongly represented on the floor of the legislature than the employers are. Over in the State of Ohio there is no doubt about that. They have professional lobbyists. For example, the railway trainmen had W. J. Winans, a trained lobbyist, for twelve years.

The Commissioner: What does he do?

Mr. Boyd: I don't know everything he does: I only know some things. He is there long before the legislature opens, and he is there when they go out, and he is there during the intermissions, and he is there all the time he isn't asleep--all the time: and he is down there on the floor to-day, around the floor in some capacity, in the Constitutional Convention; and not only is he there, but there are also representatives of the locomotive engineers and firemen, and conductors, and don't forget for a minute or think they don't take notice of what they want.

Mr. Bancroft: That is why I would like to correct a statement: not correct it, but just offer another statement. Mr. Wegenast said he thought if legislation of this kind was passed that the workmen would blame the employers. We have been connected with legislation for years, on deputations, and so forth, and I assure you they will not do anything of the kind. The workers know what legislation is in this day, and they will blame the State. They won't blame the employers for something they could not prevent.

Mr. Wegenast: I am ready right now, if you desire it, to go into the whole question of contribution.

The Commissioner: If you are ready I will be glad to hear you.

MR. WEGENAST: I do not want to take any more time than your Lordship is prepared to give. I wanted to go into a number of the items which come under the different principles. Some of them are so obvious that no supporting argument is necessary, but a number I will give some authorities on. I will read a paragraph or two out of my brief:—

"The only phase of the subject of workmen's compensation upon which any considerable difference of opinion exists is that of contribution by the workman to the cost of the insurance. So long as compensation was a matter of recovery of damages for fault, direct or indirect, on the part of the employer, there was no logical reason for contribution, but the modern systems of compensation in which all cases are covered practically regardless of fault, raise the question whether the workmen should not contribute out of his wages a proportion of the insurance premium representing the proportion of accidents due to the fault of the workman.

"The difference of opinion amongst expert authorities may be attributed very largely to the strenuous opposition of the rank and file of the labour interests to any deduction of wages. Some of the writers and authorities upon the subject have been or are official representatives of labour organizations, and are naturally influenced by the general attitude of these bodies. Other investigators who are not directly subject to this influence are nevertheless actuated by a spirit of compromise to the hostility of labour organizations and by the notion that any economic injustice will find its adjustment in the amount of wages."

Now, your Lordship can appreciate the temptation to me in my position. We are practically agreed with the labour interests on every point but this. Your lordship can appreciate the temptation to say, "Oh well, have it your own way," or something of that kind. It means really less to us than the labour interests after all, but as I said before I could not conscientiously give way on this point. I am willing, as I said, to simply lay the principle with the arguments before your Lordship, and before the labour people, and let it rest there. But I would not be doing my duty by letting the matter go by default. I adhere to the idea that I am expressing here, that no system will be found permanently satisfactory in which the workmen has not a direct pecuniary interest so far as reducing the number of accidents is concerned.

MR. GIBBONS: Might I ask Mr. Wegenast a question or two on that?

MR. WEGENAST: Yes.

MR. GIBBONS: Now, one of the reasons for a new act was to get away from litigation.

MR. WEGENAST: I am coming right to that point in the next few sentences.

MR. GIBBONS: Then here you put in this "contributory negligence" clause, or "gross carelessness." Now, it would be necessary to prove to that Commission that there was no gross carelessness, or that there was.

MR. WEGENAST: But I haven't that in.

I have had some conversation with the labour interests and I have found what appeared to me an amazing amount of difficulty in convincing them that when I say in my brief that it is proposed to compensate the workmen for all accidents—

MR. GIBBONS: With his own money.

MR. WEGENAST: And then go on to say there should be some penalty for misconduct, that I mean exactly what I say. It seems an absolutely ineradicable idea in the minds of the representatives of the labour interests that there is some trap. I am not wedded to any form of words in the plan which I have enunciated. I simply say there must be some principle somewhere—in the Criminal Code, if you like,—which will bring home to the workman the responsibility for his misconduct.

Mr. Gibbons: Just get that trap out of your head for a while. Section 2 of your statement of principles says that gross carelessness, drunkenness, and so on, should be penalized in some way. Very good. We come down to section 7, I think it is, and you have stated there that the workman should pay a contribution equal to the amount of the compensation that is caused by his carelessness, or gross carelessness, whichever you like. One of your representatives this afternoon stated that only forty per cent. or forty-one per cent. of the accidents were due to the employers, leaving fifty-one per cent. to the credit of the employees. Now, if the employee has to pay fifty-one per cent. of the contribution to this fund I think he is a great deal more interested in it than the manufacturer. That is your statement now, that he should pay an amount equal to what is charged up to his carelessness, and it was stated to-day that fifty-nine per cent. was his carelessness.

Mr. Wegenast: I am coming to that. Because in the Canadian General Electric Company there is that ratio of fault it does not follow that the same ratio exists in other industries.

Mr. Gibbons: Let me point out there why that ratio does exist in the Canadian General Electric. If you go down to their plant you will find they employ a large percentage of foreigners and they don't understand our language at all. They don't understand practically the instructions that are given, and they go into danger that they don't know is danger, and nobody can tell them because they don't understand our language, and they are killed by large beams falling on them, and one thing and another. They can't get any instructions about that kind of thing, because they don't understand the language.

Mr. Wegenast: I am not attempting to say what the proportion should be. I have statistics showing in a general way. We have Mr. Boyd's statistics, and I think I have them right here to show a proportion of about twenty-eight per cent. of fault on the part of the workmen.

Mr. Boyd: That is correct.

The Commissioner: Does that mean due wholly to the fault of the workmen? Or due partly to the fault of both?

Mr. Boyd: Wholly to the negligence of the workmen. You will find that carefully stated in the brief I presented at page 27.

Mr. Gibbons: Now, we had a striking instance of that recently in that car accident at the St. Lawrence street switch. It was heralded abroad that the motorman had done so and so, and it was all his negligence. Now, that has been thoroughly investigated at over five sittings of a Board, and they found no fault with him at all. They do not even mention in their finding that he was negligent. These statistics are gathered possibly without a trial as to whether the worker was negligent or not.

Mr. Boyd: Oh, no.

Mr. Wegenast: These statistics in the State of Ohio and in the State of Illinois are not gathered at haphazard. They were gathered by a Commission consisting of representatives of labour interests, or given under their sanction. At all events the statistics of Germany are on a basis of simply entering a claim without any action whatever.

Mr. Boyd: The Boards there all have representatives of labour.

Mr. Gibbons: It may be due to the employee not observing rules laid down by the companies. Now, let me point out to you here, as I did before,—We will take a piece of road over which a train is running, or a street car is running, and you will find at the car barns they are not to run more than four miles an hour, and at another point, "all cars must stop here," and another one that "the motor-

man must shut off his power and have his car under control at each crossing," and "must go slow past cars." Then you go to the schedule and you find he has twenty-four minutes to go from the Union Station to North Toronto, and if he observed those rules he could not do it in 35 minutes, and if he does not observe one of them then he is guilty of negligence.

MR. WEGENAST: I am not speaking of the correctness of anybody's statistics, but we know the labour men say a very small number are due to the fault of the workmen. Let it be a small number, but a certain number of accidents are due to the fault of the workmen, and the general principle that I am enunciating is that a proportion, representing somewhere near the number of accidents which are due to the fault of the workmen, should be paid by the workmen.

MR. DOGGETT: I would like to ask one question on this matter as far as it has gone. Do you think if the men did contribute the ten per cent. to the State insurance that that would stop them and make them look around and see that everything was safe on buildings, or in the industries where they were working, or do you think they would safeguard themselves on account of the pain and suffering they must endure afterwards? Don't you think the speeding-up system does not allow much time, or the Unions to save much? We have accident insurance at the present time. I do not think my experience has shown me that a workman on a building is thinking about saving the Union's money if there is going to be an accident. I have found he is looking at the subject in the light of his pain and suffering and I think myself the same thing would occur with the State insurance; they would not be thinking so much about saving the State insurance, or the money gathered by the State for insurance and their ten per cent. contribution, as they would be of the pain and suffering.

MR. WEGENAST: I will come to that presently.

"As the question of contribution is the only feature of the subject upon which the interests of employers and workmen seriously diverge, it is only natural that this spirit of compromise has found expression in some of the established systems. But notwithtanding the disposition of workmen to avoid the burden, the principle of joint contribution has been recognized and embodied in a majority of the systems."

Then I have a foot note referring particularly to a number of them. This is all in my brief.

I may say, by the way, that I do not propose to fight this to the bitter finish with Mr. Bancroft. The facts are what they are, no matter what they are. I hope Mr. Bancroft will let me say what I want to say, and leave the issue as an issue of fact.

"The contributory principle is recognized in the following European countries: Norway, four weeks waiting period; Sweden, sixty days waiting period; Denmark, thirteen weeks waiting period; Holland, about thirteen weeks waiting period; Germany, about thirteen weeks waiting period; Austria, about four weeks waiting period; and also about ten per cent. of premiums; in Switzerland, twenty-five per cent. of the premiums after certain deductions have been made."

The application of the contributory principle in Europe is also shown in the figures on page 14 of Schwedtman and Emery's book. They divide the countries of Europe into two classes.

THE COMMISSIONER: I think the difficulty between you and Mr. Bancroft is fanciful rather than real. He points to this schedule which shows what you state, that in Norway it is fifty per cent. of the yearly wage, dating from the fifth week after the accident. Of course there is no direct contribution by the employee, and

all that Mr. Wegenast is arguing for is that by means of that five weeks waiting period he does indirectly contribute to the funds.

Mr. Bancroft: The contributions are for sick insurance, and we are not dealing with sick insurance. We are dealing with industrial accidents.

The Commissioner: Now, take Norway. It says the contributions yearly are by the employers alone. That is the direct contribution. Then the benefits are free medical treatment and pension up to sixty per cent. of the yearly wage, or free hospital treatment and relief to family up to fifty per cent. of the yearly wage, from the fifth week after the accident. Mr. Wegenast's point is that if under the proposed act you only give a waiting time of a week, that that four weeks in Norway is practically a contribution to that extent to the funds by the workmen.

Mr. Bancroft: In all cases where there is a waiting period you will find there is sick insurance legislation connected with it.

The Commissioner: That is right enough, but Mr. Boyd made that very clear that while that is so it covers the accident as well.

Mr. Boyd: That is physical accident, injury to the body.

The Commissioner: So that as far as it covers physical accidents it is taken from the workmen.

Mr. Bancroft: In none of those cases is there such a proposition as the employers have made, for a direct contribution to the funds.

Mr. Boyd: Yes, there is in France.

The Commissioner: If the manufacturers propose there should be a five weeks' wait and no contribution it would be like Norway, would it not?

Mr. Bancroft: No, because there is no sick insurance.

The Commissioner: Still for an accident there is no payment. Supposing he is not sick at all excepting the accident, during five weeks of that time he gets nothing and he has to support himself, but if you give him four weeks of compensation then surely you put him in a better position than the Norway man by that four weeks?

Mr. Wegenast: I do not want to quibble over all this, your Lordship. This is the Bulletin of the Labour Bureau of the United States, and I think there is a column here showing there is only one State in the Union—Oh no, there are a number of other systems—one I think in Montana, where the coal miners contribute.

The Commissioner: The question is, what is right to be done?

Mr. Wegenast: In Maryland there is a contribution and in Ohio, and I think one other. There is an analysis of all the acts in the United States.

Mr. Bancroft: They contribute as a Compensation Act without any other insurance? In Great Britain, we have no other insurance.

The Commissioner: It would be wholly inconsistent; the employer pays there.

Mr. Boyd: That is not an insurance proposition.

Mr. Wegenast: The original intention in introducing the British Act was that workmen should contribute to the compensation for injuries by themselves bearing the burden for the first three weeks. Mr. Joseph Chamberlain stated in introducing the Act of 1897 that the only ground which justified the proposal of the Government to make provisions for work injuries was the fact that there was a large number of injuries that might be presumed to incapacitate the workman more than three weeks, and said: "If it could be presumed that all work injuries would last three weeks or less, I can see no reason for the in-

terference of the Government, because those are injuries for which the workman might be expected to provide against himself."

My proposition is as long as the workman is supposed to provide something for himself, his clothes or his food, his self respect should deter him from asking the employer to pay for something which is due to his own fault. The whole matter is discussed at large in the report of the Conference of Commissions at Chicago to which Mr. Boyd has already made reference, and here is a paragraph from Mr. Smith of the Ohio Commission. "The next reason why he should be a party to this compensation fund is that I have learned between fifteen and twenty per cent. of the personal injuries have any cause for action in the courts."

MR. BOYD: He means he does not have a cause of action.

MR. WEGENAST: He would not have a cause of action in the courts on the ground of fault of the employee, and acts of God, being inherent causes of the accident.

"It is the eighty per cent., then, gentlemen, that we have to consider. We are going to make a law to take care of the eighty per cent., and the greatest number should always be considered. That is my belief. Now, that being the case, that we are going to compensate those that have no right for compensation. I feel that the American workman is honest, the American workman is fair, and the American workman is not a charitable party, nor does he require or ask any charity from you or from me, and he is always willing to pay his part and to do his duty. But the arguments will be brought forward by some workingmen that the industry should pay it all, and then we come down to the industry. What is the industry? The industry, as we look at it, or I look at it, is something that is there where the employer derives an income from and where the employee derives an income from. Therefore, he is a part of the industry. When you come down to saying that, that the industry should stand it all, he is a part of the industry."

THE COMMISSIONER: I suppose the strongest argument for it is, if it is morally right for the workman not to be compensated for injuries due to his own negligence, you buy insurance for him against that, and is it right or not right that he should pay something for that insurance? That is the business proposition as it strikes me. I would not put it upon the ground of making him more careful. I think there is a great deal in what Mr. Doggett says, that the fact of him contributing a few cents would not make much difference.

MR. WEGENAST: The fact of his irritation at the contribution would constantly keep his attention upon the necessity of being careful. I am not speaking of the workman in an individual capacity, because I believe that in the matter of accident preventio it is necessary to have not only the individual interest of the employer, but the collective interest of the employer enlisted—the collective efforts of the employer: and on the other hand it is necessary to have not only the individual interests of the workmen, and his pain and suffering, but the collective interests of the workmen. What I would like to see is on the agenda of the meetings of the labour unions and their conventions the subject of accident prevention. I cannot for the moment see any better way, or any more forcible way of getting it on the agenda and enlisting the interest of the workmen collectively than by keeping up this very irritation.

THE COMMISSIONER: Do you think a law that causes irritation is a good law?

MR. WEGENAST: It is not *per se* a good law. I do not think it is necessary there should be a great deal of irritation, but as I stated before, if a clause were introduced in an insurance act enabling the employer to say to the workmen, if you are not careful, or if you take off those guards—or enable only the foreman to say

to his men, if you don't leave those guards on the machine, or if you do this, that, or the other thing, this rule will be enforced against you and you will have your wages reduced next month, I think there must be a direct deterring influence.

THE COMMISSIONER: What would you think of a provision by which this Board would have power to take something off the compensation that the workman would otherwise be entitled to if the accident was caused by his fault?

MR. WEGENAST: I do not like that so well. I am going into that later. There are other methods of contribution none of which are so satisfactory.

"The German system has steadily adhered to the principle of a long 'waiting period,' thirteen weeks. In other systems the workman pays directly a portion of the insurance premium by way of deducting from his wages, and the latest and one of the most carefully considered acts in the United States, namely, that of Ohio, recognizes the contributory principle by authorizing the employer to deduct ten per cent. of the insurance premium from the wages of the workman."

I think the representatives of the workmen here will not contradict me when I say that the Ohio Act is certainly an advanced type of act.

THE COMMISSIONER: If that was eliminated it would be perfect, I suppose.

MR. WEGENAST: It must be a grave fault if we believe what the labour people would have us believe.

MR. BOYD: They were not kicking before the Supreme Court. They were there with all the money that the attorney demanded to defend that act, and not only that but they printed thousands of copies of his brief and sent them all over the State of Ohio, showing his argument for sustaining that act, with that contribution in it.

THE COMMISSIONER: Does it not mean they would rather have it with that flaw in it than not at all?

MR. GIBBONS: Mr. Wegenast has stated that one of the intentions of this was to cause irritation, and now they must come around and tell us that the workmen are in favour of it. It can't work both ways.

MR. WEGENAST: There may be an occasional workman who is so far seeing as to appreciate what would be the probable operation of an act of this kind.

I thought when your Lordship started to speak a moment ago you proposed to refer to a possible power being vested in the Board to sanction the use of this contributory section. It might be further safeguarded so that the workmen would have power to impose the contribution only on consent of the Board. I do not mind how you do it as long as it is a reasonable amount.

THE COMMISSIONER: That would shift the odium from the employer to the Board?

MR. WEGENAST: It might result, and I think it would, in very few impositions being made, but the power would be there and the principle would be there, and theworkme n would have his pecuniary interest enlisted by the mere possibility. After all the individual employer would be very likely to say to the workmen, "Now, I am going to pay your wages; I have the right of course to take this insurance premium, but I am not doing that with my workmen." It is probable a large percentage of employers would do that. I should think nine out of ten would do that. It would work out as a matter of adjustment of wages, but the power would be there.

MR. BANCROFT: Mr. Wegenast, didn't the gentleman who represented the Ocean Accident here state that they only issued the policy that he asked for, and as a rule he did not ask for anything only his legal liability to be covered, and as far as humanitarian principles were concerned he had nothing to do with it? Didn't

he say that? Then why should we assume that the employer would do these things if it is not in the legislation? He only does what he has to do, like everyone else.

MR. WEGENAST: Well, the law is not made for the righteous man, and I have not anywhere suggested that the employers are all of that class.

"There is of course no question that a very large number of accidents are attributable to neither the fault of the employer or the intrinsic hazard of the injury. The only question that can arise is as to the relative proportions. The 17 1-3 per cent.; workers' fault, 29 2-3 per cent.; employers' and workers' fault, 10 per cent.; hazard of industry, 43 per cent."

THE COMMISSIONER: How are those figures arrived at? Are they arrived at as Mr. Watts arrived at his figures?

MR. WEGENAST: These are from the reports of the Boards of Award.

MR. BOYD: As I said in my opening remarks they cover millions of accidents, where they are analysed and tabulated. For example, the German Industrial Insurance Act is administered by a Commission and they publish every year an annual report of the statistical operations of the Act, covering every feature.

THE COMMISSIONER: What is the object of continuing that inquiry when it does not make any difference?

MR. BOYD: As I pointed out in my opening remarks they gather and keep these statistics for the purpose of seeing in what way they can reduce the number of accidents due to the fault of the employer, the number of accidents due to the fault of the employee, the number of accidents due to the combined fault of the employers and employees, and to reduce the element of fault in the natural hazard of the business.

MR. WEGENAST: They have most elaborate statistics on all these subjects.

THE COMMISSIONER: You say these are compiled from the papers in connection with the claims that are made upon the fund?

MR. BOYD: My statistics are taken from the annual report, a volume of about 500 pages, and the investigation of each individual case.

THE COMMISSIONER: That ought to be fairly accurate.

MR. BOYD: Those figures are not put down until the Commission agrees upon them, and that is about evenly composed of employers and employees.

MR. BANCROFT: In accident insurance I am told the ones who administer it are the mutual trade associations of Germany, composed entirely of employers, and they are the ones who gather all those figures.

MR. BOYD: No. For example every accident to the body is carried in the sick insurance if it lasts not more than thirteen weeks, every single accident. Every one of those accidents is first reported under the sick insurance.

THE COMMISSIONER: And labour is represented on that.

MR. WEGENAST: Then I have another set of statistics. In Mr. Boyd's brief in the Federal Commission, on page "732" of the Report of the Federal Commission, there is another set of statistics for the years 1887, 1897 and 1907, at intervals of ten years.

MR. BOYD: That covers the entire operation of the act over twenty years.

MR. WEGENAST: In 1887 the number of accidents due to the employee was 26.56; in 1897 it was 29.74 and in 1907 it was 28.89. Those figures agree practically with the figures given by Mr. Boyd. The following figures are given by the Illinois Commission, and they are very surprising. The Illinois Commission have been quite frank and say they have got them from the Reports of the Appellate Courts. In the Supreme Court the employer's negligence is attributed in twenty cases; employee's negligence, four cases; other causes, four cases.

THE COMMISSIONER: Those would be very defective statistics, because it would only apply to cases going to court.

MR. WEGENAST: The proportion must be somewhere in the neighbourhood of between 25 and 30 per cent. These figures are all in the brief which I have submitted.

"The principal reason for covering all accidents regardless of questions of fault, is that the expense of determination of these questions in specific cases is eliminated."

If any Workmen's Compensation Act were to be placed upon the correct moral basis, a basis of natural justice, it would mean the employer would bear only compensation for those accidents which were due to his fault and due to the intrinsic fault of the industry, or due to the acts of God. There can be no justice in charging the employer with those accidents which are due to the employee's fault.

MR. DOGGETT: I would like to say one word. It has been mentioned here that we should educate and use a propaganda in respect to educating men along the lines of being careful. Now, it is only about twelve months ago when I was on a committee, that was appointed by the Ontario legislature, to advocate the enforcement of a Scaffolding Bill for this Province. I might state that a resolution was sent on from the Trades and Labour Congress of Canada, and we duly laid our views before the committee that was appointed by the Ontario legislature, after Sir James, the Premier, and his Cabinet, had seen fit that something should be done along those lines. I might state that quite a few employers opposed that Scaffold Bill that we have now in force. That was for the prevention of accidents and for the safety of the workmen on the building, and the employers came there and opposed it, some on the grounds that it might cost a few cents more to put supports on.

MR. WEGENAST: I can show you hundreds of answers to the circulars we sent out in which employers are opposed to any change in the law for workmen's compensation. I cannot answer for the sins and shortcomings of the members of my own organization, let alone the employers of Toronto outside of our Association. With the large number represented by our Association it is hardly to be expected that there would not be an occasional one who falls a little below the general standard.

MR. BANCROFT: I suppose what Mr. Doggett thought was that while it might be advisable to discuss those things in his organization, it might not be inadvisable to take them up in yours.

MR. WEGENAST: No doubt we would have to bear the lion's share.

What I said was the principal reason for covering all these accidents was that the expense of determination of questions of fault in specific cases would be eliminated. If 25 per cent. of the accidents were due to the fault of the workmen it might take, and doubtless would take, as much, or almost as much, to weed out the bad cases as it would to compensate them. That is the point I am trying to make.

"But to throw the entire cost of insurance upon the employer not only shocks the sense of justice but places the workman in a humiliating position. It is no doubt true that on its economic side any money contribution on the part of the workman could be worked out as a matter of adjustment of wages. It may be observed, by the way also, that this is true in a sense converse to that in the argument against contribution, for if the workman's contribution were inequitably large it would result in an increase of wages."

That was already touched upon by Mr. Boyd, only, as Mr. Boyd pointed out, it would take three or four years to work it out, by means of strikes, I suppose.

"There is, however, a point at which the self-respect of the workman becomes involved. Even the most advanced form of socialism would not seek to free the workman from all sense of responsibility for his own action, or to throw upon the employer or the community at large the responsibility of making provision for his every want."

THE COMMISSIONER: You are arguing without your host. We have had strong arguments for that.

MR. WEGENAST: I don't quite appreciate that?

THE COMMISSIONER: We have had strong arguments here for making somebody pay for them, although it is the workman's fault.

MR. WEGENAST: I do not agree with that.

THE COMMISSIONER: I am saying we have heard arguments here.

MR. WEGENAST: Yes.

THE COMMISSIONER: I didn't like to say so, but that is rather reflecting upon those who have urged those arguments, to say that no self-respecting man would.

MR. WEGENAST: It is so intended. It was put in this way, I forgot by whom, but in one of the text-books, in the case of an accident in a molding shop, where the question was as to whose fault it was. The man, I believe, stumbled and spilled some molten iron, and it was found he had stumbled on the ravelled edge of his overalls. The obvious answer of the labour interests was that the employer should give him better overalls. Well, if overalls, why not underclothes?

MR. BANCROFT: Do you say that was the answer of labour?

MR. WEGENAST: My argument is this, that so long as it is recognized that each workman is expected to provide something out of his wages, there must be a point at which the obligation of the employer ends, and that point is between those deserving cases of accidents, and the undeserving cases, but as I say in view of the expense of litigation in determining in each case who was at fault, the whole series ought to be covered. This principle is so elementary that its mere statement almost calls for apology; yet this very principle would be violated by throwing on employers the burden of compensating workmen for injuries due to their own fault. Take the case of the man lying on the belt. On what principle of natural justice can you justify the employer bearing the compensation of that man who lay on the belt to sleep?

MR. BANCROFT: You have already admitted that even if that man did lie on the belt and was killed that his dependants should have compensation.

MR. WEGENAST: No, not on any grounds of natural justice; simply on the ground of expediency.

MR. BANCROFT: You have admitted it should be done?

MR. WEGENAST: On the ground of expediency.

"So long as any injuries are due in whole or in part to the fault of the workmen elementary principles of justice demand that all should bear a share of the pecuniary responsibility.

"If the pecuniary consideration were the only one it might be partially counterbalanced by the inconvenience of collecting the workman's portion and the irritation attendant thereupon. But there are other and weightier reasons for a recognition of the principle of contribution. It will not be seriously disputed that the highest degree of co-operative effort on the part of the workman to the end of preventing accidents, cannot be secured without throwing upon him some direct

pecuniary responsibility. If there should be irritation attendant upon the practice of deducting from wages a portion of the insurance premium, or if there should be dissatisfaction with the "waiting period" these serve to keep before the mind of the workmen not only individually but through their organization, to a degree not otherwise possible, the interests of the workmen in systematic and scientific methods of accident prevention."

MR. BANCROFT: At the present time you have stated that there are employers in Ontario who already have that kind of a system where employees contribute, that they have an agreement, and often this implies that it is compulsory. You have heard what Mr. Tindall said about the foremen using their position to force payments, and you will admit that many a man has joined them for the sake of not losing his job. Has that stopped accidents?

MR. WEGENAST: Yes.

MR. BANCROFT: No sir. We will have that out. I could bring witness after witness here to prove it.

MR. GIBBONS: Your argument is so inconsistent. You point out about the litigation, and you say in the next breath no self-respecting man would oppose it. Now, there must be no self-respecting man in the ranks of labour.

MR. WEGENAST: What is the inference?

MR. GIBBONS: The inference is you are inconsistent. You say it will cause irritation, and on the other hand it won't.

MR. WEGENAST: You have not drawn the proper conclusions.

MR. GIBBONS: You would say there was no self-respecting man in the labour ranks.

MR. WEGENAST: Well, I didn't want to say it.

MR. GIBBONS: We might say there was no self-respecting employer or manufacturer, but we wouldn't even throw out that inference. I think it would be uncalled for.

MR. WEGENAST: I want it to be understood as not only making the inference, but the statement, that the self-respect of the workman demands that he should contribute something towards the cost of an insurance which covers not only the employers hazard, and the hazard of the industry, but the employee's own fault, and any other view of the operation of a system which does not embody that view means humiliation and pauperization of the workman. Whether the opposition on the part of the workman is due to the want of appreciation or the want of self-respect I don't know.

MR. GIBBONS: At the present time they may collect compensation for any accident that is due to the negligence of the employer. On the other hand if they took and collected a fund of their own, or as the Unions do at the present time, pay under any circumstances, might they not just as well contribute to a fund of their own and pay this?

THE COMMISSIONER: You forget the forty per cent. or so where you would not recover anything at all, where they are not at fault and the employer is not at fault: in these necessary risks of the business the employer is not liable. It is something incidental to their occupation, and that they get the benefit for under this system. You see now a man can only recover if his employer, not through a fellow-workman, but through somebody in a position of superintendence, has been guilty of negligence, with some exceptions, and if the workman himself has been guilty of negligence and without his negligence the accident would not have happened, then he cannot recover at all. So you see it cuts him down to a very small field where under the present law he can recover.

MR. WEGENAST: It is pointed out in the reports of the Illinois Commission with great force, and it has been pointed out by Mr. Boyd here to-day, that the number of accidents which would be added to the present list of recoverable accidents for which compensation could be recovered, the percentage would be very small, something about seven per cent.

MR. GIBBONS: You stated that the laws were not made for the honest man. We are going on that basis. Now, in this case we will suppose that a very small percentage of the employers would be dishonest because they are all self-respecting, but supposing it would induce them to post up rules a violation which would make the employee guilty of negligence, and rules are just put up for that purpose. We know cases of that. I have them every day in front of me where the rule is put up to be broken, but at the same time it protects the employer; it protects the company.

MR. WEGENAST: What protection would there be under such a system as we propose? What object?

MR. BANCROFT: It would throw more of the payment upon the men.

MR. WEGENAST: Let me say frankly what is in my mind, that a minimum should be fixed in the act. I think ten per cent. is too low. I think twenty-five per cent is high enough.

THE COMMISSIONER: That would be to take out of the wage earner, on the figures you gave us, from a million to a million and a half dollars per annum. You said this morning from four to six million.

MR. WEGENAST: Well, on the basis of twenty five per cent. out of $4,000,000 it would take $1,000,000, and out of $6,000,000 it would take $1,500,000. That is on 25 per cent. On a ten per cent. basis it would take off $400,000 and $600,000.

THE COMMISSIONER: It is a big sum in the aggregate.

MR. WEGENAST: It is a tremendous shock on the wage-paying capacity of industry.

MR. GIBBONS: When we come to ask for an increase of wages, and that is determined by arbitration without a strike, is it not usually settled by just the cost of living? That is the basis they go on. I have always had to submit a statement of the cost of living, just what a man could live on, and that was the basis of the wages. Now, if a man only gets the cost of living how is he going to contribute without he denies his family and allows his children to go barefooted?

MR. WEGENAST: I want to answer that with this suggestion, which is so absurd that it answers itself. Would it not be a good plan to work out a compensation system by giving each man the increase of salary requisite to enable him to insure himself in an accident company?

MR. GIBBONS: That is what they do with policemen and firemen.

MR. WEGENAST: Would anyone contend that one workman out of one hundred would use the money for the purpose of insuring himself? The whole basis of the compensation system is the improvidence of the workmen.

MR. BANCROET: If you want a contribution from the workmen I suppose all the employers will raise the wages of the employees in Ontario to meet that compensation?

MR. WEGENAST: I am quite willing to make the suggestion, if that will do any good.

MR. BANCROFT: Why do they not pay the whole tax instead of doing it in that way?

MR. WEGENAST: If it is an adjustment in the wages, in the ultimate result it works out in one way as well as the other.

Mr. Bancroft: I don't like to say you haven't thought of this situation that we have thought about. In Toronto and very big cities there are hundreds of girls employed, and we have been discussing in the moral reform meetings how girls are driven into the white slave traffic, and we have had it admitted by ministers all over this country and otherwise that it is an economic question, and if those girls were given enough to live on properly there would be pactically a minimum of that traffic.

The Commissioner: That is very weak evidence.

Mr. Bancroft: They are proposing to take the wages of these girls at the same time they are proposing to deduct the wages of the men. Is that not a consideration? It is going to cover everybody, even the girls whose wages now are at a minimum.

Mr. Wegenast: In the Commision by the State of Illinois a strong argument is made out of a feature akin to that mentioned by Mr. Bancroft. The question is raised there, what becomes of the girls in families where the father or wage-earner is cut off, and the question is answered with a blank. These girls under the system we propose, under a rational insurance system, would receive their compensation, and is it too much to expect that in return for compensation which is provided to a very large degree by the employer that they shall contibute their pittance? Doesn't self-respect have some place in the matter?

Mr. Bancroft: I do not think under the social system under which we live there is any justice whatever for a proposition by any self-respecting employer to take the wages of the workmen.

Mr. Wegenast: "Collective effort on the part of workmen is in fact as necessary as collective effort on the part of the employers in order to obtain a full measure of success in prevention of accidents."

We want not only the individual efforts of the employer. Experience shows, and overwhelming statistics show that the best results in accident prevention cannot be obtained without bringing employers together in some collective capacity. The great success of the German system is due, not wholly, but in a very large measure indeed, to the fact that it produces collective effort. What I say is you cannot have the highest degree of effort on the part of the workmen without creating some collective effort.

The Commissioner: Is it not a little over-stated that the wage earners as a class get only barely what they can live on? If that is so where do all these accumulated funds that we have lately heard about in the different trade-unions come from? They must come from the workmen.

Mr. Bancroft: Yes, your Lordship, but it is recognized as an economic basis to-day that wherever you go in the world a man's wages represents the amount that is necessary to reproduce his labour power so he can serve it out again on the morrow.

The Commissioner: He must have a larger margin than that?

Mr. Bancroft: They are kept up largely by self-denial.

The Commissioner: How many millions would be saved if there was no liquor drunk by the workingman?

Mr. Bancroft: I didn't know that all the liquor was drunk by the workingman. I fancied the manufacturers were consumers in that respect.

Mr. Doggett: I don't think there is ever a workingman if he didn't go into the saloon but could put that money, or that money could be used to buy clothes to put on the backs of his children. As a matter of fact they are going without something else to supply themselves with that particular want.

THE COMMISSIONER: There are a lot of young men who have not got children.

MR. GIBBONS: We are here to talk about British laws, and we are all going into Germany, and if we get into this trouble that is threatened with Germany we will be tempted to take the side of Germany and work detrimentally to the British Empire.

MR. WEGENAST: Would you prefer the British Act to the Act in the State of Ohio, and in Germany?

MR. GIBBONS: I certainly would if the labour men have to contribute one-third or one-half of it.

MR. WEGENAST: That is a statement so—

MR. GIBBONS: Absurd! Ha, ha.

MR. WEGENAST: Yes, absurd.

MR. BANCROFT: We are asking for what they are asking in Great Britain to-day, state insurance with compulsory insurance.

MR. WEGENAST: That answers Mr. Gibbons in a different way from the answer I got.

MR. GIBBONS: I would say I would prefer it to this that you are proposing. I didn't say I would prefer it to a modern act.

MR. WEGENAST: "While the general tendency is for workmen to oppose and employers to favor contribution from the workmen this is not uniformly the case. In Germany where the relations arising out of the workman's contribution are best understood the tendency is to some extent in the other direction. During the last session of the Reichstag an amendment proposed by employers and bitterly opposed by workmen was passed increasing the contribution of employers to the sickness fund to from one-third to one-half."

THE COMMISSIONER: That is only a partial statement of the case. Of course it was a matter of the control of the administration of the fund. There is a big difference there. You just take that in the same spirit that you regard that in this country. The socialists in Germany are the trade-unions. The socialist movement in Germany was the one that organized the trade-unions for industrial purposes.

MR. WEGENAST: The motive of the workmen in opposing the change was to maintain their representation on the management of the Association.

"There is, therefore, this further consideration in connection with the question of contribution that the extent to which the workmen participate in the administration of the system will naturally depend upon whether and to what extent workmen contribute to the insurance fund. It has been already pointed out that the principle of contribution may be embodied in a number of ways. The most direct method is that of collecting from the workman a proportion of the insurance premium. This is practicable only by having the employer pay the whole premium and deduct the proper amount from the wages of the workmen. Another method is to interpose a considerable 'waiting period' between the occurrence of the injury and the beginning of the compensation payments, thus leaving workmen to bear minor injuries either individually or through collective first aid or sickness funds. A third method is by reduction of the scale of compensation, leaving workmen to individually bear a greater portion of the burden of all injuries."

I would like to point out in connection with that a fact that is not generally realized, that the 50 per cent. basis in the Quebec Workmen's Compensation Act was arrived at as a compromise on a question of contribution. It was said we will pay him for half his injuries if he pays the other half.

MR. BANCROFT: To-day is it not the fact that it is illegal for an employer

under the common law to take the wages of a workman for anything without his consent?

MR. WEGENAST: Well, I know one method by which you can take it and take it away altogether, by garnisheeing it.

MR. BANCROFT: I know that is a fairly good joke all right, but is it not a fact that the employer cannot legally take his employees' wages to-day?

THE COMMISSIONER: That is statutory, not common law.

MR. BANCROFT: And you are suggesting legislation that will remove a protection which the workman has to-day, which has been very valuable to him in times past.

THE COMMISSIONER: I do not think we have got any law of that kind in this Province.

MR. BANCROFT: I remember several cases where men who had made mistakes were threatened with a reduction of their wages by reason of those mistakes, and upon notifying the employer that they would sue for it the matter was dropped.

MR. WEGENAST: "It is submitted that the last of these three methods is the least satisfactory and that in preference one or both of the other two methods should be adopted." I may say the third method is by reduction of the scale of compensation.

THE COMMISSIONER: But my suggestion to you, which you said you would afterwards answer, was not that at all. Mine was about allowing the Board to make a reduction where the accident had been caused by the negligence of the workmen.

MR. WEGENAST: Well, it of course depends on the amount of the reduction. If it is not large enough it has no salutary effect, and if it is too large then it falls upon the innocent dependant.

THE COMMISSIONER: Well, applying some of your arguments, if the workman knew he was liable to have his compensation reduced if the accident was wholly due to his serious misconduct would that not be a check upon him?

MR. WEGENAST: Yes, but there I am more magnanimous than my friends opposite give me credit for. I said all these accidents should be compensated, partly on account of the expense of determining the question of liability.

THE COMMISSIONER: Not if this Board is to settle everything, if you adopt the Ohio plan and give them a wide discretion. This doctrine of contributory negligence has not prevailed, but if a collision occurs and both are at fault the loss is divided.

MR. WEGENAST: The objection to that is there will inevitably be an extension of the principle in the case of the death of a man, because it is expedient on humanitarian grounds. The dependants suffer just as much. It does not make it any more just, but still it comes.

THE COMMISSIONER: Could you not afford in the case of a fatal accident to submit to that?

MR. WEGENAST: It appears to me there is a discrimination there.

THE COMMISSIONER: It is not defensible on an economic basis upon which the thing is put. Although Mr. Boyd did not agree to it it seemed to me to introduce the eleemosynary or charitable aspect of the thing.

MR. WEGENAST: That is one of the objects in saying that carelessness should be penalized. I am not speaking about gross carelessness in the way it is referred to in legal actions. The language of our clause was a subject of controversy and alternatives were suggested, but the matter was left in that way to suit the

views of one or two members who thought the idea was expressed in its terms. I prefer the general word "misconduct" and what I had in my mind there was that there should be some way of penalizing. I don't know that the way under the Washington Act is the best, but I would not like to say it is not.

THE COMMISSIONER: Misconduct may cover very little things and very large things.

MR. WEGENAST: I am willing to have that qualified in any way that is reasonable.

THE COMMISSIONER: The way it was interpreted I think was perfectly fair, "serious and wilful misconduct?"

MR. WEGENAST: I must say I myself favoured those exact words.

THE COMMISSIONER: It must be both serious and intentional.

MR. WEGENAST: I think it expresses the intention of the Committee better than the words that are there. It is in the acts of six different provinces, and I am quite willing, but I doubt still whether it is the proper way of penalizing.

MR. BANCROFT: That is covered by the other in case of death and disability.

THE COMMISSIONER: Now, if you added to that in this case there should not be an entire loss of compensation, but it should be scaled down by the Board?

MR. WEGENAST: Yes, I quite agree with that.

THE COMMISSIONER: That would not create the irritation by collecting from every man something every week or every month.

MR. WEGENAST: I was not thinking of that feature, because the proposition is not to weed out all the cases due to the workman's fault. There must be a distinction drawn there. The cases covered by an exception in favour of wilful misconduct might be, say, only five per cent., and the cases weeded out by the question of fault, or contributory fault, or whatever it might be, might perhaps be twenty-five or thirty per cent.

THE COMMISSIONER: I thought you started out with the assertion that the doctrine of contributory negligence should go?

MR. WEGENAST: Provided there is a contribution to make up the workmen's share. Those are two different classes although the one includes the other. The twenty-five per cent. will include the five per cent. if that is the proper percentage.

MR. GIBBONS: Just take as a basis, supposing there are one hundred workmen, and ninety-nine of those men are careful and do everything possible to avoid an accident, and there is one careless man. There the other ninety-nine men contribute to protect that careless man.

MR. WEGENAST: Yes, because the employer is doing that very thing himself.

MR. GIBBONS: We have understood that was a charge upon the industry, and in the last analysis the consumer would pay for it.

MR. WEGENAST: We have also understood that in the last analysis the protection is paid.

I want to point out that the question of contribution goes farther than that.

THE COMMISSIONER: You want more, of course.

MR. WEGENAST: It is not that we want more. The question of penalizing by deduction of compensation would cover perhaps two, three, four or five per cent. of the cases of wilful misconduct.

MR. GIBBONS: Isn't he penalized already? He only gets compensation for part of the loss of his wages. If a man has an arm taken off, or a leg taken off, look at the amount of suffering? Isn't he penalized already? It is like hanging a man and shooting him afterwards.

Mr. Wegenast: I admit all that, but the five per cent. that is covered in the case of wilful misconduct is one thing. The extra twenty per cent. that is covered by the fault, or carelessness, or negligence, to use the term of the British Act—

The Commissioner: But under modern conditions it is impossible for the man to work without a very critical employer saying he was careless. It is almost necessary sometimes, he works at such high speed.

Mr. Wegenast: That simply goes to prove it may be less than twenty-five per cent. on that account, but whatever the proportion is. There is a proportion of accidents over and above what is represented by serious and wilful misconduct.

Mr. Doggett: What about if death occurs?

Mr. Wegenast: I am saying, cover them all. What I have thought of, and I haven't thought it out to any extent, is that in the case of a man who is guilty of misconduct the money might be paid to his wife, or paid to some trustee for him so as not to give him the handling of the money. It is a very feeble way of meeting the thing. Or he might be sent to jail or the workhouse.

TENTH SITTING.

Legislative Building, Toronto.

Tuesday, 23rd January, 8 p.m.

Present: Sir William R. Meredith, *Commissioner.*
Mr. W. B. Wilkinson, *Law Clerk.*

Mr. Wegenast: As I intimated at the last session. Mr. Miles M. Dawson is with us, and is ready to give your Lordship any information he can. I do not suppose he needs any introduction as he is so well known in Toronto. I thought it would be just as well if Mr. Dawson would make whatever preliminary statement he wished to make, and then we could ask him some questions.

The Commissioner: It might be as well if you would ask him to make a statement along the lines you desire, as he may make some statements not pertinent to the inquiry.

Mr. Wegenast: I think Mr. Dawson knows what the scope of the inquiry is, and I judge from the evidence given by him before the Federal Commission a good deal may be left to his judgment as to the form of his remarks.

Mr. Miles M. Dawson: I am more or less embarrassed to take that course not because I do not think I could say things which might be useful to you, but because there is such a volume of matter. I would suggest that Mr. Wegenast should indicate by questions or otherwise pretty generally what he would like to have me go into. I might explain I do not feel I am here in the slightest degree to lay out plans of insurance for the Province of Ontario or for the Dominion of Canada. I am here because of having made a number of very careful investigations on the subject, one of them for the Russell Sage Foundation in New York, by travelling in Europe as well as studying it, and the other for the Federal Government of the United States. Mr. Wegenast having examined these things

I think got the impression that perhaps some of the matters could be brought out more clearly by my giving you some information instead of getting it from the bare report. However, I should be very fearful to enter upon it of my own initiative and I should feel it would not be as beneficial hardly as if I were directed.

THE COMMISSIONER: As far as the employers and the employees are concerned, as far as they view it, it is perhaps narrowed down to four or five points.

MR. DAWSON: If I can help you on any of those points I shall be very glad.

MR. WEGENAST: You might give us some information on this point, Mr. Dawson. I have drawn the distinction in my brief, and in the argument before his Lordship, between individual liability systems, collective liability systems, and State liability systems of workmen's compensation. Could you give us your opinion as to the merits of these respective systems, and I might suggest that perhaps the expression might assume the historical form in which you put the matter before the Federal Commission of the United States.

MR. DAWSON: Well, I shall be pleased to do what I can in that direction.

The subject of compensation as distinguished from liability of employers first of all was brought forward in Germany as you know, and there from the start it was recognized to be a matter which, while primarily between the employer and the employee, was really between the community as a consumer and the community as a producer, and consequently the original plan as introduced in Germany was one of taxation under which the industry would be taxed for the purpose of providing a fund from which the workmen would be compensated, and in various documents relating to that the idea that I have just expressed was very frequently brought forward.

Another thing that was at that time pretty fully recognized, and the truth of which I think there can be no question, was this, that already the people of Germany were paying compensation precisely as in Canada and all other civilized countries. The widows and families of workingmen who were killed were not being permitted to starve. They were being sheltered and fed and clothed by the community in one way or another. It was also recognized that this condition would still continue as to the families of all workmen who had already been disabled or killed, that the community would require through its charitable institutions, either public or private, through its connectional institutions, and other agencies, to raise money and take care of those families. They treated it from the beginning in Germany consequently merely as a plan by means of which the families of workmen who had reached that stage, not through some serious criminal or almost criminal conduct of the father of the family, such as for instance chronic intoxication, or actual crime, but merely through accident, should be supported, not as a matter of charity, but through some compensation system that would preserve their self-respect, and thus enable them the better to recover from the misfortune, and to re-assume, or in case of children assume a position as an industrious workman in the community. Because of that in large part they also introduced in Germany this idea that they would not collect from the employer a larger amount currently, except in a particular respect which I shall mention in a moment, than was needed to meet the current disbursements. This would mean that more and more people would be on the fund as years went by, and only after twenty-five years, or such a matter, would it reach an equilibrium as to the number and the amount to be expended. They did that on two grounds, first that it was not fair to impose upon the community

which would gradually be getting rid of the burden that it was already carrying a large new burden immediately of putting up capitalized values for future payments, and on the further ground that the German industries as a whole would be much less affected if the cost came upon them gradually, and there would be retained in industry a very large sum of money which otherwise would be withdrawn and deposited in reserve funds and invested at low rates of interest, and that of itself of course would have a beneficial effect upon German industry. Now, one purpose, and an avowed purpose, for the introduction of this plan in Germany was to head off socialism. When it was brought forward by Emperor William in a state paper, which has always been credited to Prince Bismarck, that was one of the avowed statements of purpose. At that time historically the results of the Paris Commune had spread socialism throughout France very broadly, which has since then resulted in a socialistic government in France, as you know, and it seemed to be making greater headway in Germany. Since then although there has been a growth of socialistic sentiment, and the party itself has grown in numbers it has not grown in relative strength, and to-day can boast but a relatively small proportion of the membership of the Reichstag. I think that purpose they achieved, and the further purpose of assisting the people of Germany to solve successfully the problem of providing for the support of workmen and their families under these conditions without breaking down their self-respect, and to conserve them in every possible way for the good of the entire country is also believed to have been successful. Among other things it raised the average longevity of workmen in Germany or the German people in general almost one-half during that period, which is largely ascribed to the good conditions thus induced. The public and private charities are not spending more money than they did before, but it is undoubtedly true that the direction in which the money is spent is very different, and it is the testimony of a Commission sent over by the British Trades-Union Congress some two or three years ago that they did not find any slums whatever in Germany. In other words it has eliminated and prevented those conditions. Now, this spread to other countries. Austria first took it up and introduced the scheme as a system of State insurance pure and simple, or virtually so, and it undertook to set up capitalized values. They divided Austria into seven districts and in but one of those districts have they succeeded in maintaining capitalized values. It then spread to Norway, which was the next country to take it up. It adopted a pure State insurance system with capitalized value reserves, and it has maintained them, but only by the Norwegian Parliament undertaking to make good a deficiency. About that time the general idea seemed to appeal to many countries, but the idea of dealing with it as a matter between the public as consumers and the public as producers did not seem to appeal so strongly, and consequently Great Britain, France and Denmark at about the same time introduced laws providing for compensation to be made to workmen for accidents on about the same lines as in Germany, but instead of providing for it being an insurance system, placed the liability directly on the employer. In France alone of those countries was there any State insurance connected with it. In France the State organized a department in which employers might voluntarily insure, but the State would not cover anything but permanent injuries and deaths, and consequently very few relatively have insured in it. The State in France also introduced one other idea, and that was the collection from all employers of a small tax for the purpose of guaranteeing that if an employer who was liable for a benefit became insolvent

the benefit would still be paid, or if an insurance company which was liable for it failed the benefit would still be paid. The tide about this time had run as far in that direction as it could, and it turned. I might say in that connection that Belgium followed these countries modelling it largely upon that of France. When it turned it caused Holland and Italy to adopt insurance plans. In Holland it was a State insurance plan, but with the privilege of the employer to run his own risk provided he had let the State Department adjust the claims, and then would put in the hands of the State Department the money to pay them. It also required him to give a satisfactory bond so that it was sure he could provide it. In Italy they had compulsory insurance, but a choice was given between private companies and mutual companies set up by the State. In Sweden they introduced State insurance, but with the privilege of insuring in stock or mutual companies, and also the privilege of going without insurance altogether. The last country to take action was Hungary, which although under the same crown is not, as you doubtless know, really a part of the Austrian Empire, or at least not a part of Austria, and the insurance law of Austria did not apply to Hungary. The action which was taken in Hungary was to introduce a system almost identical with that of Germany. That is historically what has taken place.

In some of these countries the system has not been operating long enough to know preceisely what is to be expected from it. I might, however, mention what has taken place in a few of the smaller countries first. In Belgium, where insurance is not compulsory and is altogether in private companies, they have lost so much money that it is now probable that they will have to introduce State insurance as a means of taking care of it. In Holland, where private companies or employers might carry the risk provided they gave a bond and did various things, and permitted the State Department to adjust the claims, the State Department is doing all the business. In Denmark they have just decided to introduce State insurance, according to my latest advices. In Sweden the State Company is driving the private company out of business. That is conceded by the private companies themselves, and it is evident on the face of the returns. In Italy, up to the present time the situation has not been satisfactory and what the result is going to be I hesitate to say. In France, I do not know of any immediate probability that the plan there in use will be changed. The private companies have not found business profitable, and the mutual companies are finding it necessary to increase their rates, and the conditions are not altogether satisfactory. I know leading men in France, who when that law was put into effect were very much opposed to compulsory insurance, are now converts to it. Monsieur Poincaré, who is now Premier, and an acquaintance of mine, takes a very pronounced position about the matter, and Monsieur Millerand, who is a member of his Cabinet, and who was the author of the old age pension law of France, declared in favour of compulsory insurance at the conference in Rome some three or four years ago. He is also a friend of mine and I know his attitude, and if any change is made in France that will probably be the change there. As you are so fully aware of what has taken place in Great Britain it is not necessary for me to give any special mention to it. The tide of opinion has greatly changed concerning the way in which these matters should be dealt with. The British people, as short a time ago as four or five years, were supposed to be almost unanimously, as far as the influential classes were concerned, opposed to compulsory insurance, and yet it has now been introduced in two very important lines, whether wisely on the whole remains to be seen. Of course nothing but experience will show. However, it is noteworthy about it that

the Conservative party, while they are strongly disapproving of much that was contained in the Bill, was so convinced that some remedy of this nature was required that its members preferred to let the bill pass without either strenuously opposing it or insisting upon amendment, indicating that a great change in the opinions of the people of England has taken place relative to the entire subject. Some things can certainly be said about the diametrically opposite ways in which the thing has been done in England, for instance, and in Germany. One of them is that on the whole the way in which it has been done in England has proved unsatisfactory. It would not be necessary to name a single man who says that; it is almost universally the opinion there. The Trades Union Congress, for instance, has condemned the present system in Great Britain, and I think at every single session since 1897 has called for the introduction of compulsory insurance, and a very large proportion of the British employers are of the same opinion. The highest authority on the subject from the technical standpoint in Great Britain is Mr. Henry Wolfe, and his opinion has for a long time been pronouncedly the same. On the other hand, in Germany, with only the occasional exceptions of some person who from the mere fact that he does speak makes him prominent as being so much against the chorus, the entire sentiment of all the people is that the plan has worked well, and the only changes that are being proposed in it are with reference to its extension to solve other problems, and assist the people and the Government in bringing about better conditions for the German industries in which the country is always so much interested. To the criticisms that are brought against the British system as in actual operation I shall be glad to call your attention, but first I should like to mention the things which are generally brought forward as those which have certainly been accomplished under the German system. In the first place, it is said of it that it does the work—it really does the work. I have said the Trades-Union Congress of Great Britain sent representatives over to look into the matter on the ground in Germany, and here is one sentence out of their report: "The absence of slums in the manufacturing quarters of the towns visited, and elsewhere, was also noticeable. It can be said that nowhere did the deputation see any quarter that could be classified under the heading slum." They started with some prejudice against the general idea, but they returned very much in favor of it. The second great recommendation was it started without any great strain upon the industries. This was due, as I have stated, to the industries being taxed only enough money to meet the money requirements. Perhaps your Lordship will remember that I promised I would mention one departure from that. They collect a small reserve in Germany in the form of a surcharge upon the regular assessment. This reserve is not collected for the purpose of providing, in the present at all events, for future sums payable. It is collected with the view that if there should be a war or great depression of industry for a time so that the pay-rolls of employees became greatly reduced, under those circumstances under the German system, with the amount that should be paid for workmen's compensation depending on the year's work, but arising out of all the years prior thereto, it might be necessary to collect a considerable increase in the regular rate of assessment, and the German reserves are maintained for the purpose of taking care of that situation if it arises. Another thing that has made it very successful is, as I have stated, that it withdraws the minimum of capital from the nation's industries. This looks very small, your Lordship, when we deal with it as percentages. For instance, you take the rates which are charged for workmen's compensation insurance, and it

does not look like a big thing at all, but it would have been literally hundreds of millions of marks tied up in relatively non-productive investments at low rates of interest, and actually withdrawn from the active industries of Germany, and it might have made a very great difference to Germany in their race for the world's supremacy in the markets. In fact, I think I can say it would have made a great deal of difference, because Germany has never had more capital than she needed. You remember at the time of the late unpleasantness what is supposed to have brought a halt in Germany was want of money, and had she crippled her industries by tying up funds in the manner I speak of she might not have assumed the important place in the world's markets that she has. Another feature of that is it is managed by the contributors and they are therefore self-convinced, and therefore content. In my opinion absolutely the best method of control and management of these funds is that the persons who are paying in the money should have as large a measure of control over them as practicable. Another feature of the German plan is its being so economically conducted. It costs, including what they spend for prevention, which is a very considerablee amount, only 14 1-10 per cent. to manage the fund. This, however, is equalled by the State system in Norway where the cost is only 11 per cent., but no part of that is used for prevention. Another feature that they are very well satisfied about is it greatly encouraged prevention. Now, it may seem at first blush you could not get a better way of encouraging prevention than to hold the employer distinctly and directly liable, and there is something in that as applied to the large employers where you can get an average, but the small employer, to him it is only a risk, it is not a certainty, and he ascribes necessarily the whole thing to luck, and experience has shown that it does not greatly encourage prevention unless it is operated through some insurance system where want of care on his part, and want of keeping up proper safety appliances, and so on, results in an increase in his premiums. Another feature which has done a great deal of good is this, and it is laid great stress on in Germany: it has greatly increased the efficiency of the German workman. Now, your Lordship, I am sure you can remember, as I can, a time not very long ago, a quarter of a century or a little over, when it would have been a matter of absolute amusement to us, or to either of us, if anybody had affirmed that the German workman on the whole was more efficient than the British, and yet that is not affirmed now only in Germany, but it is affirmed in Great Britain; and the thing which is the most surprising is the German employers ascribe it very largely to this system. I take it it is the moral effect of it. The German workman who does his work right, and who does not do something criminal, or quasi-criminal, is assured of support for himself and for his family whenever such misfortunes fall upon him, and it has had a tremendous moral effect. Another thing, too, under the German system there is a considerable amount of co-operation between the employer and employee in the carrying out of the plan, and that has had a tremendous moral effect. In any event, it has been decided by the German manufacturers and the German employers generally that such is the case. In addition, it is also attested by them that it has been a very large element in the great industrial advance of that country. For instance, Dr. Kaufmann, the President of the Imperial Insurance Department, said at the 25th anniversary of the inauguration of the German system, "It was no accident that the period of this great expansion synchronized with a radical improvement in the condition of the workers, for the two are intimately connected. Unquestionably a contributory cause of our growing industrial pre-eminence may be seen in the successful treat-

ment of social questions, and particularly that of workmen's insurance." Then Dr. Zacher, who is the highest authority on the subject in the world, also said at the same meeting, "All these facts warrant us in affirming that, far from trammelling, workmen's insurance has been one of the principal factors in the unparalleled advancement of Germany."

Now, the other system, I am sorry to say, because I am a great admirer of the British—I spring from British ancestry myself and I am proud of the ancestry and the country from which my people came—is not satisfactory. We call it British just because it happens to have been Britain where this particular method was first introduced. Now, one of the objections to it, and I think the worst objection, is that it really does not do the work. Here, for instance, is a quotation from the *Policy Holder,* published in the interests of the private insurance companies in Manchester, England. "We must say that if anything is likely to provoke the State to start compensation insurance, it is the action of many offices in 'bluffing' claimants into unjust settlements. Almost every day we notice in some part of the country the intervention of the County Court to prevent the registration of some agreement which is manifestly unfair." Then there is an omission, and then goes on: "To-day they often trade upon the ignorance of claimants when they should be collecting higher premium rates. This naturally arouses the anger of all right-minded persons, and it certainly gives those members of the community who are inclined towards socialism an opportunity to plead for the nationalization of all the means of production, distribution and exchange. If the insurance offices serve the public well they have nothing to fear, but shaving claims to swell the dividend returns is not good service." Then here is a little account of something that took place in a court in England, published also in another insurance paper, the *Insurance Observer,* a paper published in the interests of the private insurance companies in London. "Judge Emden said that he did not approve at all of those lump sums. They were getting far too frequent. He believed that he was correct in saying that now the larger portion of the work under the Workmen's Compensation Act was being transacted under agreements of that character and the object of the Act was being defeated. If the case before him was, as was alleged, an improper case to bring, it was not a case for an agreement at all, and ought to be dismissed. If it was a proper case, then an agreement was not the right way to dispose of it, and he did not think the workman would be properly protected unless the matter came before the court. He had been watching those cases for some time, and his conclusion, based upon investigation, was that the whole beneficial effect of the Act was being defeated."

In that connection I might call your Lordship's attention to the original conditions which caused this legislation to come into existence, that it was merely the community in one sense dealing with the community in another sense, and the machinery was through taxation upon the industry in order that it might be fair. The difficulty about it when the private company is thus interposed is the private company simply wants to get a settlement and get out of it. Now, the community wants that widow, those children, or that disabled workman, whatever the case may be, supported during this disability under these conditions. It wishes to take a burden off its own shoulders, not merely to provide that family with a lump sum, for instance, or something like that, which they may spend in six weeks or six months, and then be on the community again. Another difficulty about

the British system was that it started with a maximum strain on the British industries, not a minimum. It may be it is only coincidence—I would not care to blame it on this system as being the only cause, or even the chief cause, your Lordship, that this thing should have taken that course—that on the whole relatively in the world's market British industry has fallen back during the last fifteen years, while Germany has gone forward; but these are significant notwithstanding, taking into account the very close margin on which the world's markets are handled, and which especially British employers and manufacturers have always dealt in. Here is a specimen: "A blast furnace in Great Britain, prior to the adoption of the 1897 Act, was paying from 10 cents to 20 cents insurance rate on $100 of pay-roll. After the adoption of the act they paid $1.50 on $100 of pay-roll. I have used dollars because that is familiar to us, instead of pounds and pence. A nail factory which had previously been paying from 10 cents to 20 cents on $100 of pay-roll was required to pay $1.25. A rolling mill, and that is one of the greatest of British industries, which had previously been paying from 10 cents to 20 cents, was required to pay from $1.50 to $1.87½. A tannery, one of the great industries of Great Britain, the tanning of hides and manufacturing of leather, previously paid 10 cents on $100 of pay-roll, and was required to pay $1.25. Those changes almost as they stand there were superimposed upon the British industries immediately with no chance to adjust themselves to them, or anything else. There is the same illustration here in Canada. Several of your Provinces have already adopted Workmen's Compensation Acts. One of them is the Province of Quebec, and one the Province of British Columbia. There have been several since that time, but I haven't the rates for those Provinces. In the Province of Quebec the rate for a nail factory prior to the passage of the Quebec Act was 42 cents on $100 of pay-roll, and it became immediately $2.40, six times as much. On a rolling mill it was 52 cents on $100 of pay-roll, and it immediately became $3.61, nine times as much. Now, those are exceedingly important differences, and the differences in other lines are similar. We had a similar experience in New York when we passed our law. I have investigated what the change was that took place in New Jersey after they passed their law, and to-day several industries in the city of Camden, just across from Philadelphia, are paying ten times the rate for workmen's compensation insurance that it is necessary to pay in Philadelphia, in the State of Pennsylvania, for Employers' Liability Insurance in some industries. You can easily see that is a serious handicap to a New Jersey industry, and in the world's markets such things are handicaps. Another thing has been that it has withdrawn a maximum amount of capital from the nation's industries. It did this on account of a capitalized value system of setting up reserves in private companies, and also on account of the forcing of the purchase of Government annuities. Wherever the company wished to get out of the risk or get out of the payment it would put up a lump sum to be invested in the purchase of Government annuities, or else it would be deposited with a trust Company, and in that way a great deal of money that did not need to be used at that time has been withdrawn from the industries of the country. Another harm that it has done is that there has been no personal touch between the employer and his injured employee, or between the employers as a class and their injured employees, and consequently they are eternally criticizing the companies without really suggesting any remedy. Then, again, it has proved very expensive. The avowed expenses are 36 per cent. as compared with 14 per cent. in Germany. The actual expense, however, is larger because in the pub-

lished report of expenses of the British companies they do not include the money paid for litigation or in the adjustment of claims, and the estimate of those who are really expert in it is that the real expense is about 50 per cent., about the same as in Canada and the United States. In the United States there is 51 per cent. of the premiums absorbed for expenses. Another thing that has come out of it is that it does not encourage prevention. There is not even a pretence anywhere in Great Britain that anything has been accomplished in the matter of encouraging prevention in this way. It has been given on the authority of persons whose knowledge of the matter is very complete, such as the recent Royal Commission that investigated it, that there is not any evidence whatever that it has encouraged prevention, and there is considerable evidence to the contrary. It has not increased the efficiency of the British workman. I am not going to spend time on that. Your Lordship is, I know, fully aware of the nature and extent of the problem in Great Britain of bringing about an increase of the efficiency. Less than twenty-five years ago no workman in the world was considered the equal of the British workman, and I am sure that that condition will be created again. The average to-day is high, but in some other countries, and very particularly in Germany, in a way that is attributed to the superiority of their way of dealing with this thing, the achievements in Great Britain in the matter of efficiency have been reached and passed. I would like to mention one thing, though, to your Lordship which I think is really very interesting. Under the system there of holding the employer directly liable and permitting insurance to be carried with private companies two things have arisen, one of which is practically openly avowed by the companies, and the other exists although not avowed. The first of these that is avowed is that wherever they are competing very closely as to rates they make arrangements with the employer so that persons are not employed who are beyond a certain age, and in letting older employees go. Those who are beyond that age are permitted to go, and a preference is given to the younger employees. This, of course is a very serious situation, in view of the fact that it tends to throw men out of employment at advanced ages, and one of the reasons that the British Government felt it right to deal with the question in so serious a way was because if a man had reached a certain age and got out of employment he did not get back again, in some lines of trade at least. Now, that is not denied at all, but there is another thing taking place which is not so openly avowed, but which has unquestionably taken place notwithstanding, and that is that a preference is given to unmarried workmen. If the unmarried workman is killed at his work the amount that is paid is simply a benefit, and the company can get out of it cheaper if a larger proportion of the workmen is not married. It may occur to you immediately that that happens the same with any kind of system, for instance, with a State insurance system, but the difference is the State is not interested in competing with somebody else as to rates. The State is interested, on the other hand, in having all its people who are capable of labour profitably employed, so there is not any financial inducement for the State insurance system to behave in that manner, nor really any opportunity at all. It is said that the failure of Great Britain to advance her foreign trade as rapidly in proportion as Germany is to a considerable extent due to this condition, resting partly upon the falling back in efficiency, partly upon the withdrawal of capital which should be in industry, and partly upon other causes growing out of the system. I rather think, your Lordship, that there is one element of that that is more powerful than any of the things I have mentioned, and that is that while they have admirable trade

unions in England and have done a great deal of good work, and are established in better shape perhaps than the trade-unions on this continent for doing good work, they have almost no established co-ordination and co-operation between the employers and employees through these associations. On the other hand, the German employees are quite accustomed to business negotiations with their employers or representatives of employers relative to the insurance system, and I am told in Germany that they consider that that has been a large element in preserving peace there, and thereby increasing the chances of Germany in the world's markets.

Your Lordship will remember, I am sure, an issue that was raised in England not long ago about the increasing difficulty of obtaining for the army men who measured up physically and otherwise, and the complaint that there were signs of actual degeneracy in that respect, and I thought I would like to read to you something that Dr. Zacher, whom I have already mentioned as the greatest authority on this subject in the world, says about this in Germany, "According to recent data (and he names the data) the average duration of life rose from 38.1 years in 1870 to 48.85 in 1900 for men, and from 42.5 to 54.9 for women; the general death rate sensibly diminished and the mortality due to tuberculosis has been reduced to about half what it was formerly, so much so that one can hope to see the scourge which decimates the people soon completely vanquished, a hope which could scarcely be realized without the powerful organization of workingmen's insurance. For this by curative and preventive measures brings every year prosperity into millions of working families, and thus not only conserves numerous forces for the nation, but even augments, by the hygienic education which it gives them, the vital force of great masses of population. That explains why the operations of recruiting despite the growing industrialisation of Germany indicate a constant improvement of the number of men called to perform their service and of their physical development."

If there were no other reason why such a method would be preferable, and if that reason be valid and correctly stated, I should say it would be entirely sufficient, and it is because of those things I have personally formed the conclusion sometime ago that on principle as between these two methods undoubtedly the insurance method is preferable. I am afraid I have given a rather long answer to the question, but I hope it may be useful.

MR. WEGENAST: I just wanted the historical story as a basis. What do you consider the real basic difference between the British and the German systems, speaking of them in those terms?

MR. DAWSON: Fundamentally the difference is between conceiving this as a method of causing the consumer of products or services to include in the price which he pays for them provision for the same consumers as producers against accidents, and the system which primarily conceives of it as causing the employer to pay it as an employer to the employee.

MR. WEGENAST: Is that not more a difference in the method of attaining the same result?

MR. DAWSON: The result of that difference in conception is that in England they have held the employer directly liable. In case he does not insure and the accident happens he himself must pay it, and in fact he must do so in any event if the insurance company should fail, while in Germany they hold the State liable virtually and compel the employers to pay taxes, raising a sufficient fund out of which to pay all such compensation. It also fundamentally differs in this that under the British system where there is insurance it necessarily results that the

insurance company must put up a reserve sufficient to take care of future payments on account of the accident that has happened, and therefore must charge a premium accordingly, or it must pay a lump sum, if it can get an adjustment on a lump sum payment, or it must pay the money over to a trustee, or else must buy an annuity from the Government for an employee, and in any one of those cases the lump sum must be raised and the rate of insurance grow, while under the German system they only collect enough from year to year to meet the requirements of the year. Possibly it would interest your Lordship to learn how they arrange about those collections in Germany. In Germany the Postal Savings Banks advance all the money necessary to pay all the claims during the year, and those advances are made to the different funds out of which the payments are to be made as required. The Savings Banks of course charge interest upon the aggregate amount. At the end of the year, after it is definitely known just how many marks were required to be paid, the insurance authorities divide up the amount into assessments upon the individual employers. They say it works very simply. There is no guess work about it. It is a post mortem assessment.

MR. WEGENAST: The assessment is made after the amount required is definitely ascertained?

MR. DAWSON: Yes.

MR. WEGENAST: Now, you have spoken of the social insurance systems of Germany which consist of four different types of insurance, but on the basis of a workmen's compensation system alone, a system which would compensate workmen simply for the results of accidents happening in connection with industrial occupations, what would you say as to the relative merits of the individual liability system such as that represented in England, and the collective liability system such as represented in Germany?

MR. DAWSON: Unquestionably the system of treating this as a public matter and assessing all employers their fair share of the cost of it, instead of imposing an individual liability upon the employer, has worked best everywhere and is best in every respect.

MR. WEGENAST: I was not thinking of it so much in the sense of a State function, but in the sense of simply a large collective system. Suppose you could, without the intervention of the State, establish a system in which all employers in, we will say, one certain industry were assessed on the basis of the hazard of the industry—how would a system of that kind compare in efficiency with a system where the liability is thrown on the individual employer?

MR. DAWSON: I should expect it to be very much more efficient and much more economical. The German is a system such as you describe. That is to say, in Germany they divide the employers of the country into classes according to their industry. All the metal trades would be in one class, for instance, and so on. All the drug and chemical trades would be in another, and it is generally thought that has worked even better than the State insurance system in Norway, for instance, especially in the matter of encouraging prevention.

MR. WEGENAST: You would prefer then classifying the risks according to the industry rather than according to the hazard?

MR. DAWSON: Oh, undoubtedly. For one reason, because the people engaged in related industries understand one another's hazards, and would be able to give far more guidance in the matter of prevention. I think it is an immensely better system.

MR. WEGENAST: Of course you are familiar with conditions in this country and in the United States. There are of course no institutions in this country

corresponding to those upon which Bismarck founded his compensation system, namely, the voluntary employers' associations?

MR. DAWSON: There weren't very many of them, even in Germany. There were some.

MR. WEGENAST: How many, approximately?

MR. DAWSON: I could not give you the number, but it was few. There was, however, quite a development of private mutual sickness insurance associations, and really they based their system as much on that as anything else. The first development in Germany was to broaden the sickness insurance association.

MR. WEGENAST: Do you see any difficulty under the conditions here, and of course you are operating under the same conditions, and coping with them, in the United States, in working out a system similar to that of Germany, without having these employers' associations?

MR. DAWSON: Well, it would not be similar to that of Germany in the strict sense of the word "similar," because it would not be like it, but a system of State insurance under which no more was collected than would be required from year to year, except an amount for the establishment of the contingency reserve that I spoke of, would be very closely similar to it. It would not be the same thing, of course.

MR. WEGENAST: Aren't the essential principles of the acts of the State of Washington, and Ohio, and Massachusetts similar to the German.

MR. DAWSON: The Act of the State of Massachusetts is very similar because it does recognize a classification of industries and separate associations, as I recall it. I am not quite sure about that, but I think so. I know there was in the original suggestion. In any event it is very similar to it because the employers are to have the management of the Association. In the other two States it is a State insurance plan under which the State authorities operate it, but in other respects it is very similar.

MR. WEGENAST: I asked Mr. Boyd, who was here the other day, this question, whether in his opinion the result of classification of the employers of industries would be to raise something similar to the associations in Germany. What do you say as to that, Mr. Dawson?

MR. DAWSON: If it were undertaken on a national scale in Canada or the United States it would. It might in a great State like New York in any event.

MR. WEGENAST: What I am thinking of, Mr. Dawson, is this. Suppose the employers in the Province of Ontario, say the employers in the woodworking industries, were placed in a class, and that class made to bear the hazard of its industries? What I had in view was there would be some way found whereby those employers would combine to undertake activities in the direction of accident prevention, and perhaps in other directions, without being compelled by the Government to form an association as they are in Germany? What do you say as to that?

MR. DAWSON: Well, I fear I would only be hazarding a guess, and I am inclined to think you could answer it better than I could because of your position in the Manufacturers' Association. I am not certain that it would in all cases or in nearly all result in that, and yet I can see that it would in some cases if it was intelligently directed. If these same manufacturers had any disposition to associate in some other respect, or some other way. I can quite see that this would give an impetus to their giving attention to this also.

MR. WEGENAST: You have spoken of the compulsory insurance system, or as I call it the collective liability system, as tending to a greater degree to prevent accidents. How do you consider it has that effect?

Mr. Dawson: It has had that effect in Germany very markedly and it is attributed to the fact that first of all it is a pure assessment system, and if through failure to take proper precautions there is a heavy burden thrown on the fund in a given year the result of it will appear in larger assessments at the end of that very year so that there is no escaping it.

Mr. Wegenast: So it is brought directly home on the start, and not spread over a number of years as in the insurance companies.

Mr. Dawson: Another reason is they themselves or their representatives manage the fund. They have the right also to make rates for the different industries that are in the association, and they penalize strongly the failure to put in proper preventive measures. Then again it has given a great impetus to the study of preventive measures. A very large proportion of the failure of prevention, your Lordship, is due not to any disinclination, but simply to the want of knowledge. As a result of the German system they have developed the invention of methods of prevention to a degree that previously would have been deemed absolutely incredible. Persons connected with these mutual funds have that on their minds, and their conscience is charged with it, and they are thinking out ways in which these things can be accomplished.

Mr. Wegenast: Would you expect that result to follow in the case of an Act like the State of Ohio or the State of Washington where they make classes?

Mr. Dawson: I could not say certainly what I expect from either Ohio or Washington, except I do expect it will be helpful towards efficiency in a broad way, but when I come to reason by analogy I have to put those into a class with Austria and Norway for the reason that the whole thing is to be conducted by appointees of the Government, and therefore I do not know certainly that there will be any great impetus directly given to prevention.

Mr. Wegenast: Your idea then, Mr. Dawson, is that the chief inducement towards prevention arises out of the employers themselves being called upon to administer.

Mr. Dawson: Directly participate at least in the administration. It does to a large extent, and especially where they are participating in the administration of an association of allied industries, the general nature of which every man that goes there as a representative is fully acquainted with.

Mr. Wegenast: So that is a desirable feature to have incorporated in a workmen's compensation system?

Mr. Dawson: I personally think it is. I realize the difficulty of incorporating it in a system which applies only to a single Province in Canada, or a single State in the United States, but if it were possible for you in Canada, as far as I know the situation here—I do not claim to know it well—or for us in the United States to do the thing nationally, that is the way I think it should be done.

Mr. Wegenast: I do not wish to monopolize Mr. Dawson's time, your Lordship.

The Commissioner: You have opened one branch of it, and I suppose Mr. Dawson has told us all he thinks is important to tell upon that. If any of the other gentlemen desire to ask any question they may do so now.

Mr. Dawson: I wish to say, your Lordship, it will be a great pleasure to answer any question if I can. If I cannot I will say I cannot.

The Commissioner: You have dealt with the broad question historically and with the three systems, and have given your opinion as to which is the best of the three.

Mr. Dawson: In general, yes.

THE COMMISSIONER: If there is any question upon that branch of the subject any gentleman desires to put to Mr. Dawson now I think is the time to do it. If not I have a few questions I would like to ask him.

MR. BANCROFT: In speaking of the assessment of the employers in industries, I would like to ask, in speaking of the collective method of insurance, as to whether you have anything in your mind which relates to an assessment upon the workmen?

THE COMMISSIONER: We will come to that later. That is not on this branch of the subject.

MR. BANCROFT: I would like to ask you another question, Mr. Dawson, and that is this, as to which you think is the safest plan for compensation to workmen, the capitalization, as in the State of Washington Act, or in those places you have spoken of, or the current cost system, where the employers pay during that year enough to meet the expense occasioned in that year?

MR. DAWSON: If the State assumes this burden and provides for the payment to the workmen I should regard one system quite as safe as the other. If the State puts the burden entirely on the fund and does not assume the liability in case, for instance, the fund should be badly invested, or anything of that sort, I should regard the capitalized system as very much more dangerous than the other. The real assurance that the payment will be made is the adoption of this principle by the State or nation, and the adoption of a plan or programme for collecting the money to do the things that are there promised. I do not think the question would ever arise in Germany among workmen as to whether they were not as well provided for as, for instance, in Great Britain where capitalised value is held by insurance companies. I think they would feel very much safer under the guarantee of the German Government than under the guarantee merely of an insurance company. As regards Norway I am sure the confidence of the people is in the fact that the Norwegian nation is behind the promises. If that were not true a bad administration might lose the whole fund and the workmen be left without the protection.

THE COMMISSIONER: What is there, Mr. Dawson, to prove that the improved condition in Germany of which you speak is due either wholly or mainly to those things you have been telling us about.

MR. DAWSON: Only the opinions of the most competent observers there, your Lordship. The employers of labour, the workmen themselves, the statesmen of the country, of all parties, and the very cautious, careful and thorough-going students of the subject are pretty nearly a unit on that question. Mr. George when he made that investigation before they introduced anything in Great Britain caused the interviews to be put down, and I presume your Lordship may have seen the report. There is a little Old World reasoning about that which I think your Lordship would be interested in if I would mention it. The old Chinese philosopher Mincius put forward the proposition that when the people are assured against misfortune they are of a fixed heart, and when on the other hand they are overcome by misfortunes, not by their own fault, they are not of a fixed heart. It seemed to me, Sir, as I went about there in Germany that there was a lot of truth in that. They are not well paid as we pay American or Canadian workmen, but they really did have an air of well being that seemed to speak well for the efficiency of the system.

THE COMMISSIONER: But these laws that you speak of as insuring against accidents are only a part of what they have in Germany?

MR. DAWSON: That is true.

THE COMMISSIONER: Is it not the aggregate of all the laws that leads to this condition?

Mr. Dawson: The aggregate of all insurance laws. Insurance laws all grow out of the accident legislation, and in addition are largely merely supplemental to it.

The Commissioner: Do you attribute the improvement of the condition of the German workmen entirely to this? Is it not that he was low down and has grown, and that by comparison the Englishman who was away ahead of him has not grown so rapidly? Is there not something in that?

Mr. Dawson: Yes, I think there is, your Lordship. I do not think that this is the sole cause by any means.

The Commissioner: There are some people who think that the system of protection in Germany led to the improvement in the condition.

Mr. Dawson: I am aware of that, and I think there may be some ground for that argument too, although I have not been a strong protectionist myself.

The Commissioner: I did not quite understand how you thought it would be practicable under such a system as could be adopted here that the employers should administer the fund. If the State is to be behind the fund how can it possibly be that the employers could control it?

Mr. Dawson: As I stated at the outset, your Lordship, I really do not feel competent to deal with the particular conditions here, and if I answer your Lordship's question I trust you will take it with as much consideration as possible. I do not really wish to make a suggestion as to how you could best deal with it, for I do not feel that I understand the circumstances sufficiently well.

The Commissioner: Perhaps you will explain a little more fully how the employers administer the fund there?

Mr. Dawson: Yes, and then perhaps I can give you a parallel statement as to how I think they could do it in the United States, and that may be useful. The way they do it there is this, the State furnishes the compulsion. It says, you must join these associations; you must make your payment to that association; the association of the trade in which you are engaged shall levy a tax upon you proportionate to your pay-roll and the estimated hazard of that business, and you must pay it. It then says all of you who are engaged in that trade may cast votes towards electing persons who will manage that particular association. It will be the duty of that association to adjust claims, to make provision for the carrying out of the different things that are required under the law, to make its reports annually, to distribute at the end of the year the assessment, which I explained to your Lordship has been arranged for absolutely, definitely through the payments having been made through loans by the Savings Banks—to distribute that assessment at the end of the year according to the pre-arranged assessments, and so on. The result is the machinery is entirely in the hands of that mutual association.

The Commissioner: Suppose the mutual association does not act?

Mr. Dawson: The Government would not permit it not to act.

The Commissioner: Perhaps here there might be more difficulty than in Germany.

Mr. Dawson: I do not say that such a thing might not happen, but I do say I do not think it would happen. I think the employers as a class are very willing and really very anxious in their own interests to take part in it.

The Commissioner: It would rest upon that state of mind of the employers continuing.

Mr. Dawson: Well, of course it is one of the open features. Of course if they do not it would be up to the State to provide other means.

THE COMMISSIONER: Does it not look like a roundabout method, especially if the employers determine the claims—if they do.

MR. DAWSON: They do.

THE COMMISSIONER: Does that not make them judges in those cases?

MR. DAWSON: That is one weakness—the adjustments made by these employers' associations. They were criticised as being entirely too liberal by Mr. Friedensburg. They are so severe that one half of the claims are sent to the Committees of Arbitration. The workmen will not stand for half of them.

THE COMMISSIONER: They have the option of sending it on?

MR. DAWSON: Yes. That is one feature, and I think the new bill—I am not sure whether it remained in, but it was the intention of the Government that the employees should be represented. The employers objected to that very powerfully and perhaps it has not been granted.

THE COMMISSIONER: How about the great body of people before these Acts came into force? How are they protected?

MR. DAWSON: In Germany the following was the situation before anything had been done. The civil law gave even less chance of recovery than the common law, and especially under the common law as it has been interpreted by the courts of Canada and the United States. The mining industry being peculiarly dangerous was organized into a mutual association such as was referred to by Mr. Wegenast, and thereby agreement between the employers and the employees there had been introduced a system of insurance to which both contributed, and a few other industries in Germany were organized, more or less perfectly. The State railroads were also maintaining systems, and the works which afterwards became the famous Krupp Works also had a system of mutual contribution in existence. That is about all that had been accomplished.

THE COMMISSIONER: That is not quite what I meant. The body of the workmen who became entitled to the benefits of this insurance, the men who had met with accidents before and were not provided for at all, how were they levelled up, or were they levelled up at all?

MR. DAWSON: As I stated in my introductory remarks, the situation was this, that those who had been disabled previously and their families had already fallen upon the public or private charities, or in some other way were being taken care of, and of course Germany or the German people have had their care on their shoulders through ordinary taxation or other means ever since, until they die off. That is likewise true in Ontario, of course, precisely as in Germany.

THE COMMISSIONER: You said there would not be the danger of discriminating against old employees under a State system. Was not something you said a little illogical, if I may be pardoned for using that expression? You said as the amount had to be taxed at the end of the year he would take care that as few accidents as possible happened in his industry, and therefore he would use the more appliances.

MR. DAWSON: Precisely.

THE COMMISSIONER: If the employment of younger men would free him from accidents would he not be likely to gravitate in that direction.

MR. DAWSON: I think that question is particularly apt and I congratulate your Lordship upon having presented it. The situation though is this, that it is obviously a thing which could not be done for an entire country or an entire Province; it could only be done with a particular employer. The whole association of employers could not keep the older employees out of service unless we were to assume that a situation existed where the entire industry could get along with-

out the whole complement of employees. What actually would happen under such circumstances, if an individual employer tried that particular way of getting a lower rate for himself, would be merely that his associates in that mutual association would refuse to give him a lower rate. You see the private insurance company is interested in the matter simply this way, "can we get this business at a profitable rate? In the first place, can we take it away from our competitors, and secondly, can we do it at a profit." They are only thinking of the specific risk in that case, and they say to that particular employer if you will do so and so we will do so and so. Now, that condition cannot arise in the entire State.

THE COMMISSIONER: That is a difference only in degree.

MR. DAWSON: In any event it is the universal testimony that it has not made its appearance in countries where they have State insurance.

THE COMMISSIONER: Now, you spoke of the large increase in the rates. Is it quite accurate to say that was due entirely to the increased burden, and was not a good deal of it due to the fact that these risks were being carried at too low a rate?

MR. DAWSON: On the contrary the rates I read you first as in existence in Great Britain in 1897 before the first Workmen's Compensation Act went into effect were profitable, and the companies were making good margins on them.

THE COMMISSIONER: They could not have paid many losses?

MR. DAWSON: Very light losses indeed, and since the new law went into effect ever since 1897 they have been losing money, and steadily losing more.

THE COMMISSIONER: If you started a mutual company, fire, life or accident, and proposed simply to assess for the losses as they happened, would there not be inevitable bankruptcy in a short time?"

MR. DAWSON: It would be bankruptcy in Germany likewise for that mutual association if it was not for the State compulsion; there is no doubt about that.

THE COMMISSIONER: I suppose there is this difference, that it would be compulsory new business all the time. Everybody would have to come in.

MR. DAWSON: That is it.

May I state here the assessment life insurance is the most dangerous form of assessment insurance on account of men growing older and the risk getting greater, and yet we actuaries are of the opinion that a life insurance would be entirely practicable and entirely solvent on an assessment plan if we had compulsion.

THE COMMISSIONER: If everybody had to insure?

MR. DAWSON: Yes, and yet if you tried the same thing on a voluntary plan it would break down.

THE COMMISSIONER: This surcharge as it is called, is that a large amount?

MR. DAWSON: It no doubt aggregates quite a good amount. I don't recall what it is, but it is many times smaller than the capitalized values would have been.

THE COMMISSIONER: It is a kind of reserve, is it?

MR. DAWSON: It is a reserve, and it is held as I have stated, for the purpose of taking care of a situation of general prostration of industry. They have never had to use it yet.

THE COMMISSIONER: You tell me in Germany they went to the Union Postal Savings Banks and drew the money?

MR. DAWSON: Yes.

THE COMMISSIONER: If Mr. Wegenast is right that this law would be a burden—that would be of course if capital sums were paid—of from four to six millions a year, it would be a pretty strong State that could meet these demands as they came up to the counter.

MR. DAWSON: It would be of the same nature as a State borrowing on the head of the collection of its taxes. It would be the same type of thing.

THE COMMISSIONER: What do you think of those figures? Perhaps it is unfair to ask you that without the data, but it rather startled me. Four to six million dollars additional by a system such as is in Great Britain, for instance.

MR. DAWSON: How much is your pay-roll?

MR. WEGENAST: May I state roughly how I put it?

THE COMMISSIONER: Just state your figures, and let him make his computation.

MR. WEGENAST: I worked it out on the basis of a pay-roll of $150,000,000, which is a very conservative estimate I think of the pay-roll represented by the manufacturing employments in this Province, and I ventured the rough estimate that on the basis of $150,000,000 an act like that of England would cost from four to six million dollars a year more than is being paid now.

MR. DAWSON: Mr. Wegenast mentioned to me something like four times as much, and I took the figures of British Columbia and Quebec, and the previous rates charged there by the Canadian companies, all of which I collected for my own Government some time ago, and I came to the conclusion that roughly the rates were about three times as much, averaging between those two provinces, as what they were before. I also came to the conclusion that the average rate paid by employers was about 75-100 of 1 per cent., or 75 cents on $100 of pay-roll, and if that is true and if these figures are correct here, which of course I do not know about, roughly at the present time they are paying $1,125,000 we will say if they were all insured and were doing it through the insurance companies, and I should say from the comparison that I made that the payment would not be less in any event than $3,500,000.

THE COMMISSIONER: Total?

MR. DAWSON: Yes. So the difference would be about $2,500,000. Now, that is a very rough statement, and I would not like to be bound by it in any way.

MR. WEGENAST: I was basing my rates on the Washington Act, of course. You said $2,500,000 of an increase?

MR. DAWSON: At least that I think.

THE COMMISSIONER: If something on this line were adopted and it was impracticable for the State to provide the funds as they are provided in Germany, it would be necessary to start with a down payment of some kind.

MR. DAWSON: Yes, it would be.

THE COMMISSIONER: How would you think that could be best regulated?

MR. DAWSON: Well, actuaries could work that out for you reasonably close. They would necessarily provide in such manner that they would feel confident that the amount collected at the beginning of the year would be sufficient so that there would probably be some surplus to start the next year with, but that could be reasonably closely worked out, a great deal more closely than it could be on a capitalized value plan, for this reason, that on a capitalized value plan you have the uncertainty about the number of accidents and their severity, and we have also the uncertainty about the correct capitalized values of the benefits that should be paid for them. You have the double uncertainty which makes it much harder for an actuary to deal with than the pure risk.

THE COMMISSIONER: The assessment plan that is in use here in fire insurance, and I suppose it obtains elsewhere, with the premium note and the fixed payment on account of that, and then an assessment to meet the losses?

MR. DAWSON: A system such as that could be utilized. Speaking of that, I suppose, your Lordship is familiar with the tremendous work which has been done by the mill mutuals in Massachusetts and our eastern States?

THE COMMISSIONER: No, I am not.

MR. DAWSON: Cotton mills prior to the adoption of the mill mutual system were paying rates all the way from two and a half per cent. to as high as six per cent. per annum on the value of the property for fire insurance, and the fire companies were not making any money at that. They created mutual associations and adopted the prevention idea very powerfully, and they have reduced the rate, until to-day it costs less to insure the cotton mills of Massachusetts than a residence.

THE COMMISSIONER: Is that a reflection on the owners, when they insure themselves there are not as many fires?

MR. DAWSON: I take it it is mainly because they have introduced most excellent methods of prevention. For instance it is one of the rules of one of those mill mutuals, if you don't do the thing we order get out. That is the point.

THE COMMISSIONER: Are they very numerous?

MR. DAWSON: There is a long list of them, and they now cover the cotton mills of the entire country.

THE COMMISSIONER: What do you say about the shifting of the burden from John Smith to Thomas Jones, which such a system would necessarily involve?

MR. DAWSON: Merely this, that if the principle is correct that it is a community method there does not seem to be any great reason why the community should undertake to solve it in one way that is inconvenient and burdensome rather than in another way which is less inconvenient and less burdensome, merely because some particular individual may not pay as large a rate in one case.

THE COMMISSIONER: If you have what looks like a hard object lesson it makes people think the law is bad. Supposing now this year a man conducts his factory very badly and there are a number of serious accidents in it and he breaks down, and the burden of that is thrown upon the future years and the men that have been careful. Will it not strike people that that is unjust?

MR. DAWSON: Well, you will only very partially avoid that under the capitalized value system. Let me take an illustration in dollars so we can get it clearly. Suppose for instance for the amount that had to be paid out for the year the cost was ten cents on $100 of pay-roll. Let us assume that that is only one-tenth of the total cost. It probably would be one-sixth or one-seventh, but we will take it one-tenth, and consequently he should have paid $1. Now, if a condition such as you speak of arises the probabilities are the losses which he will throw on that fund one dollar will not come within any distance of covering it; it will be ten dollars, or a large amount—such as a big explosion might cause—so you see it is only a question of degree after all, and insurance is intended to take care of that sort of situation.

THE COMMISSIONER: No doubt. With the Ohio law there must be at least five employees to bring it within the taxation. What do you say as to any such limit? Should there be any limit at all in that direction?

MR. DAWSON: Personally I think not.

THE COMMISSIONER: How would it be practicable in a country like this extending from almost Winnipeg to Labrador. Our Province itself is a very big Province, and how would it be practicable to collect taxes from all these small concerns.

MR. DAWSON: There will be occasional failures. There are in Germany occasional failures to collect. but I do not think the failures are larger, or perhaps

quite as large, as in the collection of some other kinds of taxes. You see most people who pay wages, especially in industries, are people of some substance, and as a rule I think the taxes are collected rather more easily than some other forms of taxes, with a smaller percentage of loss.

THE COMMISSIONER: Do you think the men who are liable for it would voluntarily pay, and you would not have to get after them?

MR. DAWSON: The experience in these other countries is they did not have to get after them.

THE COMMISSIONER: I thought an income tax nearly everybody tried to avoid.

MR. DAWSON: Yes, that is true,

THE COMMISSIONER: What machinery in such a country as this could be devised for collecting these rates?

MR. DAWSON: You would have to use the same machinery virtually that the employers' liability insurance companies use now. That is travelling auditors who visit the offices of the employers.

THE COMMISSIONER: That would only reach the big ones, and you want to get the little ones.

MR. DAWSON: They insure the little ones, too.

THE COMMISSIONER: They do not get down to the small ones that are here. I suppose you would have to let them out.

MR. DAWSON: The vast majority of the risk written by the employers' liability companies are on small employers. The biggest companies rarely insure anybody.

THE COMMISSIONER: But they are in central positions, not in remote parts?

MR. DAWSON: That is substantially true.

THE COMMISSIONER: It might be as much trouble to collect these taxes as it would amount to.

MR. DAWSON: It might in some cases, but I think the Government would not have any greater difficulty than with its other taxes in the same neighbourhood.

THE COMMISSIONER: Is the basic principle of this law you advocate economic or humanitarian?

MR. DAWSON: I consider it is economic. It has its humanitarian phase, as all economic things have. In other words, if it would be healthier and better, and if it would tend to a higher type of man, and the creation of greater efficiency, and of men who when they undergo these misfortunes bear up beneath them, then I would be in favor of their doing it, even if it caused great distress.

THE COMMISSIONER: Our hospitals, and all those things, are all on humanitarian grounds.

MR. DAWSON: Yes, and in Germany they are doing tremendous work towards the creation of more efficient men and better conditions, but the primary step is not humanitarian after all. The primary step here, it seems to me, is first justice and the second economic consideration.

THE COMMISSIONER: In the case of a man who by his own fault has brought about his death, is there anything but humanitarian grounds that would justify the taking out of the employing community compensation for him?

MR. DAWSON: Well now, your Lordship, I would like to draw a distinction there. If it is his own fault in the sense of carelessness——.

THE COMMISSIONER: I do not mean that.

MR. DAWSON: You mean wilfully?

THE COMMISSIONER: Or such a thing that anybody seeing it would say that man went to his death with his eyes open.

MR. DAWSON: I, personally, consider that the only ground that should be included with the other, and I am not at all clear it should be either—I would not object in the statute to see wilful fault absolutely excluded. There are relatively few and they could be dealt with through private and public charities at present, but if there is any principle I think it is not humanitarian. I think it is strictly economic. Let us take an illustration. Supposing John Doe, living in the city of Toronto, virtually commits suicide by doing a thing that was either so rash or crazy or reckless, or else he was intending to commit suicide and everybody was convinced it was wholly his fault. Under such circumstances, if he leaves a family in destitution the city or the province, either through public or private charity, is going to support that family and educate it. They will do it anyway if you do not have any law at all, and if there is any reason for bringing him within this act it is merely that his family may not be brought up on the pauper basis.

THE COMMISSIONER: That falls upon everybody in the community. That does not fall on the employers.

MR. DAWSON: It does not fall on the employers except as a means of transfer.

THE COMMISSIONER: I judge that your idea is that the employer gets it back again.

MR. DAWSON: My judgment is it is part of the cost of carrying on the business, and will be transferred with other costs into the price.

THE COMMISSIONER: What do you do with the commodity where the world's market controls the price?

MR. DAWSON: It would be affected by the German and the French and the British, and all the rest of them. They all have the same thing, and that market has already a provision in the price for this thing.

THE COMMISSIONER: This man cannot raise his price at all if you put another burden upon him. Take, for instance, the mining industry or the lumber industry, how can they add anything where the market is the world? How can the man who produces wheat add anything?

MR. DAWSON: I would rather take some business which is already a world's business in which other countries are engaged. Let us take mining.

THE COMMISSIONER: Is mining not a harder one?

MR. DAWSON: I will take mine first and then your Lordship's. If it is already a world's business in which Germany and Great Britain and all these countries are engaged, and if the prices are fixed in the world's markets with reference to those conditions, then either one of two things is happening: either Canada or the United States where those conditions do not exist is dragging down the world's market to their level, which ought to be stopped, if it is resulting in all the cost not being paid, or else the employers of these countries that are escaping this burden are getting higher prices than they ought to get unless they are willing to assume this burden. I will give an illustration: between Camden and Philadelphia, we have New Jersey imposing ten times the premium upon the industry that Pennsylvania does, and the industry is probably not able at all at the present time to shift it into the price for the reason that it has competition across in Philadelphia, and in that matter I can quite see that it would be a hardship under those conditions. What ought to be done is Pennsylvania should pass a law of a proper character.

THE COMMISSIONER: I want to go back to the first point we were discussing. I suppose there is no country in the world as backward until the last few years in legislation in this direction as the United States of America, meaning no offence to a distinguished citizen.

MR. DAWSON: Certainly not, and in addition your own country was on a level with it.

THE COMMISSIONER: Exactly. Now, is it not a fact that the United States artisan and the United States manufacturer have advanced more rapidly than the German artisan and the German manufacturer?

MR. DAWSON: I think the following is unquestionably true your Lordship, that the conditions of freedom in your country and in mine, and the conditions of free opportunity which held before the workman the possibility and the prospect of being engaged in something other than manual labour after awhile has had a tremendous effect. There is one thing I think in our country—and I am not speaking of yours because I am not acquainted with it—to-day there is a widespread complaint about the want of efficiency in workmen, and I ascribe it to the fact that for the last twenty-five years, during the very period that England has been giving that fixed heart that Mincius spoke of to its workmen, we have been keeping ours on a sea of speculative conditions by which every workman has before him the object lesson of his mates and of friends of his in the same occupation who through no fault of their own have nevertheless become, together with their families, pauperized. I think the moral effect of it is bad. I think the effect of it upon the efficiency of the workman is bad. I do not believe as conditions stand to-day the workmen of my country are on the whole, taking into account the greater freedom and greater opportunity of success, as efficient as they are in Germany. I am sorry to say it, but I believe it to be the case.

THE COMMISSIONER: Has not the specializing of industries, a man doing just one little bit, and that is all he does, and another man does a little bit, made it that you do not get the finished artisan that you had in former days, although your production is better. You do not get the man to do the whole thing and make him a better man as an artisan than the man who is practically a machine.

MR. DAWSON: I think there is much in that, and yet you must remember that it is exactly what they did have in Germany thirty years ago, and to-day the result is just as you pointed out in asking me a question earlier, a perfectly tremendous improvement in the efficiency of their labour. It seems to me, in other words, that we are going to have to deal with the whole subject much more scientifically, and one of the earliest steps to deal with it scientifically from the standpoint of the historical development and the natural development is right here.

THE COMMISSIONER: If you were free in your country from constitutional difficulties as we are perhaps free—perhaps to some extent tied up—would a national system be preferable to a local or provincial system?

MR. DAWSON: Decidedly. I believe we are free to do it now. The National Association of Manufacturers in the United States through its attorney, without any knowledge at all that I was working on it, much less what my conclusions were, arrived at the conclusion that I did, that it was constitutional, and the attorney of the New York Central lines independently arrived at the same conclusion. So there were three of us working entirely separately and arriving at the same conclusion. That view is growing very rapidly, but meanwhile, until

that question is settled, it is necessary for us, as it is here, to act through Provinces, to act through our various States.

MR. BANCROFT: I wanted to get Mr. Dawson to corroborate one or two opinions if he will. While more interested in the prevention of accidents than the compensation from our standpoint, Dr. Cotton, President of the Imperial Insurance Department, says this, "Recognizing that it is of prime importance to prevent injuries the State officials and Employers' Associations have concentrated their combined energies upon prevention, and wonderful has been the result. Scientific accident prevention is now recognized as a special and important branch of technical engineering." I would like to ask Mr. Dawson if he has found that to be true in his investigations?

MR. DAWSON: Well, that is unquestionably a very moderate statement of what has taken place in Germany.

MR. BANCROFT: It is better than that?

MR. DAWSON: Yes. This I am sure would interest you all. "The exhibition of the means adopted for prevention of accidents in Germany in the tremendous exhibition hall that is always open every day in the week and every hour in the day in Berlin is one of the most marvellous things that I have ever seen, and the marvellous thing about it is not merely all these inventions." You must remember they show them here in Toronto and over in the States now and then, "but every solitary one of them that is of value has been adopted by the mutual association of employers and enforced, in the introduction of new machinery at least, and frequently to the extent of even old machinery to be removed and new put in."

MR. BANCROFT: That has been the result of the collective liability of the employers in the mutual trade associations?

MR. DAWSON: That has been, undoubtedly.

MR. BANCROFT: They combine among themselves to see that those regulations are enforced, and they do that for the mutual protection of the cost of the rate upon industry.

MR. DAWSON: That is, it causes the rate to be lower.

THE COMMISSIONER: Just one question. I do not know that it is particularly your branch, Mr. Dawson, but you spoke about prevention. What means, if any, are practicable to prevent what is said to exist to a very considerable extent, that workmen, especially those who are doing piece-work, will when devices are supplied for their protection, throw them aside and will not use them? Is there any way of dealing with that situation?

MR. DAWSON: The German associations go to the length of requiring an employer to dismiss a workman.

THE COMMISSIONER: It was suggested here, and it was suggested that the union would make trouble, and say that that was not a sufficient cause.

MR. DAWSON: I am very glad your Lordship brought up that point. Now, I appear here as a witness brought by the Canadian Manufacturers' Association, and I am glad to come, but I was counsel for the shirt-waist girls in New York, and that work I was doing for nothing, from sympathy, in other words, and a great deal of my public work has been done for unions and for working people. There is one thing which I first called to the attention of a committee representing the trades-unions of Great Britain at the International Congress of Labour Legislation at Lucerne some three years ago, just before I returned from my study for the Russell Sage Foundation. There was one thing that impressed me very

powerfully in Germany, and that is the workmen seemed to have a complete and very full realization of wherein their interests were adverse to their employers'. That is, it was obviously adverse to the matter of getting a higher wage, and in getting shorter hours of labour, and similar matters, but they were also equally alive to the things in which their interests were the same as their employers'. I attributed that very largely to the fact that in the insurance system in Germany there is a very large element of co-operation between the employers and the employee in carrying it out, and the employers through their representatives are quite accustomed to deal with the employees through their representatives, not on mere occasions when there was some difference as to wages and hours, but daily. Now, under those circumstances they do not strike for such reasons as you speak of. Instead they say, "You deserve it, you are not only imperilling yourself, but imperilling the rest of us."

THE COMMISSIONER: I am not at all suggesting that is what the unions would do, but it has been said they would.

MR. BANCROFT: It was not said by the workers' representatives?

THE COMMISSIONER: That need hardly be said.

MR. DAWSON: There is one illustration which would appear to indicate that they do enforce rules there with a certain amount of thoroughness. We observed in visiting an iron foundry that the workmen all had their trousers outside their boots in the usual way. Now, I have happened to observe in quite a number of cases in the United States, especially in the Western States, they wear their trousers inside the boots. This was called to our attention by the gentleman who was with us. He told us one of the rules was that they must so wear their trousers. I said, Why, what has that to do with it? He said, That is very simple, if there happened to be some molten metal strike their trousers and the trousers are outside the boot it runs on to the ground, but if they are inside it runs into the boot. Now, as small a thing as that calls for attention.

THE COMMISSIONER: An engineer in charge of a stationary boiler knows that he has allowed the water to get out. He knows also that half a dozen men are there who if he puts cold water into that boiler may probably have their lives lost. He does it. What would you do with that man if he had ten children? Would you give him compensation?

MR. DAWSON: On the economic ground that the fact that he caused this thing has nothing to do with what the State had better do with his family I think I would, although I am not so clear about it. I am not insistent upon it. But in any event, of course, the others you would.

THE COMMISSIONER: We must not put a law in the statute book that would shock the conscience of the people. Suppose you had it demonstrated that a man employed in a powder factory had deliberately gone into the factory with a lighted pipe, had blown up the factory and that half a dozen had been killed, and that was all in the papers, and you proposed to pay that man if he had his leg broken, a couple of thousand dollars. Would that not shock the conscience of the community?

MR. DAWSON: I do not think it would if it was ordinarily included. I would rather answer your Lordship by what actually happened in one country. The French spent a lot of time in their National Assembly debating that question, and they finally got a law in which they excluded gross negligence on the part of the employee, and included negligence on the part of the employer and made it a larger amount if it was on his side. I do not know the number of cases that

have so far been brought because I have not looked into it for about three years perhaps, but after the law had been in force for about ten years the number of cases were less than twenty in the entire country that had arisen under that feature of the law, and my recollection is that in only about seven of them was a favourable decision given.

THE COMMISSIONER: That is on both sides of it?

MR. DAWSON: So really it did not prove to amount to anything. It looks in theory as if it were an important matter, but I feel personally that it is of no very great importance whether it is in or out.

THE COMMISSIONER: But you believe, with the people of this country or your country, if a thing strikes them as unjust it will make them jealous, and they will condemn the whole law if in a particular case it works what they conceive to be an injustice.

MR. DAWSON: They have not had a gross negligence provision in the British law.

THE COMMISSIONER: I would not say gross negligence. I think the man in the case I put is a criminal.

MR. DAWSON: Well, the German Act has always had a provision to the following effect, that the criminal act of the man himself would exclude, and the criminal act of the employer would render him liable for the entire damage directly and immediately instead of the insurance fund. I think that is a good provision really.

THE COMMISSIONER: You have not said whether with a law such as you have suggested the common law liability of the employer should go.

MR. DAWSON: If it were not for the example that Great Britain has given us I would be disposed to say undoubtedly. The experience in Great Britain has been that to preserve to the employee the rights under the common law has not been a serious matter. That is to say, it has been taken advantage of very little. I am not sure that that experience would be repeated in the United States, and I am not in a position to judge at all as regards Canada. I am inclined to believe under existing conditions in the United States, if the right were thoroughly preserved and as large as it is now, the common law would be resorted to in a vast number of cases, and it would make a great deal of difference.

THE COMMISSIONER: Well, ought it to be? You are giving to the workman something to which the law does not entitle him.

MR. DAWSON: Yes.

THE COMMISSIONER: Why should he not surrender something? It might be in a few cases some use, but in many cases it would be of little or none.

MR. DAWSON: In my judgment if a plan providing ample and proper compensation, and especially providing compensation that continued during the disability, and in the case of minor children until they were sixteen years of age, old enough to go to work and get a fair education, were introduced in your country or in mine, the workmen as a class would be satisfied with that law and would not wish the common law to be maintained.

THE COMMISSIONER: Would it not seem very unjust to an employer who had paid his contribution that he should be liable to a particular employee in a common law action besides?

MR. DAWSON: It has been decided in Montana to reserve the right to sue under the common law while requiring him to pay compensation is unconstitutional, and they uphold the constitutionality of the law in every other respect.

THE COMMISSIONER: Of course if that was the direction the law was to take it must be made so that there would be, as you put it, a full and reasonable compensation to the man.

MR. DAWSON: The objection which started strongly in the State of Illinois, so strongly that all the labour people in the United States decided against giving up the common law rights, was really based upon the proposition to greatly limit the benefits. They were to be limited to a very short term of years and to a very relatively small amount. In my judgment had the law of Illinois been that, say, 60 per cent. of the wages should be paid as long as the disability continued, which would mean liable to be continued for life, and a fairly liberal per cent. of say 20 per cent. for a child to be paid until that child was 16 years of age, in my judgment the workmen of Illinois would not have objected. Of course, as large an allowance as 20 per cent. could not be paid if there were a large number of children, but just one child. I mean fatal accidents.

THE COMMISSIONER: Has this phase been considered? Perhaps it would be found that the man who has been killed has something put by and that his family are not dependent upon the fund. How then is it justifiable to take the money and pay them?

MR. DAWSON: The same economic wrong has been done the family. There is not the same powerful social reason for doing it, but if you did not do it then this whole thing would be on a charity basis, and if it were all on a charity basis we would have the breaking down of the self-respect of families exactly the same as any other charity. This might interest your Lordship as to how the workingmen look at it. I have introduced several plans of so-called mutual associations for workmen to which employers contribute, or what they call in Great Britain "establishment funds," which by the by was the thing that the British Parliament expected to become the great thing under the British system, but it did not happen. I have helped to devise several of those plans in the States, one not long ago at Albany, for instance. Under that plan the employee is in effect giving up his common law rights, because he cannot draw the benefits of the fund and at the same time assert his common law rights. The very first receipt he signs he signs away the right. We provided reasonably liberal benefits in the form of so much a week during disability based upon the wages, and so on, and so much in the event of death, and calling for a contribution. It covers death from all causes and sickness from all causes. It calls for a very liberal contribution from the employees, and I am informed that every solitary man in the works is satisfied with it, and I am satisfied that no stress was put upon them.

THE COMMISSIONER: That was life insurance.

MR. DAWSON: No, you see it covers accidents and sickness as well, and death from all causes.

THE COMMISSIONER: On the ordinary life insurance plan.

MR. DAWSON: But you see the workmen were contributing to it as well as the employers. So I do not think when the benefit is substantial and is such as to make a workman feel that what he is receiving is right, and will do the thing that is expected of it, there will be any disposition to insist on maintaining the common law rights.

MR. WEGENAST: I have persuaded Mr. Dawson to stay over till to-morrow night if a sitting could be arranged. I would very much like to see a sitting arranged.

THE COMMISSIONER: I had another engagement, but perhaps it could be arranged.

MR. KINGSTON: There was one question that arose out of the discussion as to the difficulties of collecting this tax. Would not the realization on the part of the small employer that if he did not pay he would not enjoy the benefit of the Act be a means which would induce him to pay?

MR. DAWSON: I should think that would be an unwise thing to do. I should think you had better give the employee the right to get on the fund irrespective of whether you collected the tax from the employer or not. I am not familiar with your constitutional limitations, but if you have no constitutional limitations against it I think the wise thing to do would be to impose this as an excise tax and absolutely prohibit that particular business.

THE COMMISSIONER: We cannot do that. That is Federal.

MR. DAWSON: In the United States the States and the Government both have that power.

MR. BANCROFT: In your investigations in Europe did you find they were better satisfied under this condition, which is supposedly a heavy burden on their industry?

MR. DAWSON: On the whole they are. You will find individual cases where employers complain. They generally are seeking some way in which the burden can be made less and that is the reason why prevention has so powerful an influence.

THE COMMISSIONER: How do you get that testimony? It must be from seeing individual employers. Is there any collective statement anywhere where you can see how those who are entitled to speak for particular trades look upon it?

MR. BANCROFT: There is one here from the chairman of the Employers' Associations of Germany.

MR. DAWSON: There are a great number in Mr. Schwedtman's work. This is spoken by Dr. Spiecker.

THE COMMISSIONER: Is he of the socialist persuasion?

MR. DAWSON: No, indeed. The socialist proposition in Germany is peculiarly a trade union proposition, and pretty nearly all the working population of Germany, that is the wage-workers, are socialists practically.

"To-day everybody who views the situation without prejudice must acknowledge that the work of the Employers' Associations in this field of prevention and compensation is a great blessing not only to the workers but to the industries and the nation. It is perfectly evident to-day that we have secured higher efficiency in industry by relieving our workers from the worries and distresses on account of sickness, injury and invalidity." That is a quotation taken from manuscript handed to me, but I have seen the passage.

MR. BANCROFT: Is that your personal opinion?

MR. DAWSON: That is also the opinion I have formed, and my opinion was based, your Lordship, upon the following things. First, upon the almost absolute unanimity of the statements made to me by employers and by persons connected with the employing classes. Second, by my knowledge and by information gleaned from the printed statements that have been made and from books written by persons out of the employing classes themselves. Third, from statements made to me by Dr. Zacher, Dr. Kaufmann and others who have made a very thorough study of it, and are well acquainted with the opinions of all classes, and themselves non-partisan.

THE COMMISSIONER: According to Mr. Wegenast the individual employers in this Province require a good deal of education. They do not seem to see much use of a change, although the Association as a body has taken a different stand.

MR. DAWSON: The fact is, of course, till within a very few years the employers in your country and in my country have not given this particular matter any study whatever. As long ago as 1898, when I drew the first Workmen's Compensation Act offered in the States, I brought it then to the attention of Mr. Roosevelt who afterwards became President, and in fifteen or twenty minutes' conversation made him see the principle upon which it was based, and the correctness of it, and he has never ceased to be an advocate of it. I also brought it to the attention of a gentleman who was then the President of the Travellers' Insurance Company. He was hide-bound, and I did not make so prompt a conversion, but he came to me in a few weeks and he said, "That has been growing in my mind, and it seems to be right." In other words education is pretty quick in these things, and it works quickly when it once gets started, but I think it is quite true that the employers of your country and of mine have not until recently been much educated.

MR. WEGENAST: I would like to make one remark. You used the expression, "The individual employers of our association." With the words "the" left out I am willing to let it stand, but otherwise not.

THE COMMISSIONER: It could not be the body of them.

MR. BANCROFT: I think you have mentioned this report?

MR. DAWSON: That is the report of the British Trades Union Commission.

MR. BANCROFT: Did those gentlemen coincide with your views?

MR. DAWSON: In general, yes. That delegation I think went over as the result of the suggestion that came to Mr. McArthur and others that I spoke of, that went soon after, and I strongly recommended it.

MR. WEGENAST: You spoke about that in your brief before the Federal Commission?

MR. DAWSON: Yes.

THE COMMISSIONER: You spoke of slums. It depends a good deal on how a man looks whether he finds slums or not.

MR. DAWSON: Yes, but in my country we find them without having to look far, I am sorry to say.

THE COMMISSIONER: We had a distinguished gentleman here a little while ago who pronounced Toronto free from slums, contrary to the opinion of some who live here. I hope that is not the real condition in Germany.

MR. DAWSON: I think not. It would be idle to say that there were no paupers in Germany, but it is a fact that you do not see the people with the sodden appearance and the hopeless appearance that we do in New York, and many other localities.

THE COMMISSIONER: The housing problem has a good deal to do with that.

MR. DAWSON: Yes, and the same scientific education which has brought this about has a good deal to do with the housing problem. They have maintained in Germany a thing which I am inclined to think that perhaps your Lordship and myself, and others who have stood for all we prize in British law will some day have to recognize also, and that is that there is a paramount right after all in the entire nation as regards realty. They do one thing in Germany that I was very much against my will compelled to admire, and that is they really do tell the owner of real estate "it is only within certain limits you may do what you want with your property." I wish they had said to them in New York, you cannot build a building over a certain height.

THE COMMISSIONER: You push the price of the surface up too high and they have to go up.

Mr. Dawson: One of the results of that is it destroys the value of the building beside it, and the result has been bad.

Mr. Doggett: I would like to ask Mr. Dawson if he believes that workmen should contribute towards State insurance?

Mr. Dawson: It is a question I am very willing to answer, your Lordship, at the proper time.

Mr. Bancroft: Unless Mr. Wegenast asks Mr. Dawson about that we are shut off, and we shall have to retain Mr. Dawson as our counsel.

Mr. Wegenast: Mr. Dawson is just as much the witness of the labour people as he is ours.

The Commissioner: I forgot to ask Mr. Boyd what the Norris Bill of Ohio was. I judged from what he said it was a measure introduced some two or three years ago which took away the doctrine of defences.

Mr. Dawson: It is called the Norris Bill there, but in other States we do not call it by the name of the author. That was a law passed two years before the adoption of the existing law took away the defences under the Employers' Liability Act, and it was passed with the avowed purpose of frightening the employers into being willing to accept something in the way of a Compensation Act. It removed I think almost entirely the risk defence; perhaps not entirely.

The Commissioner: Contributory negligence?

Mr. Dawson: I think something of that kind.

The Commissioner: Mr. Boyd said it did away with contributory negligence, I think?

Mr. Dawson: It may be, but where it was clearly the employee's fault only, they still left that defence.

Mr. Wegenast: That is a thing which a great many of your laws have adopted, I think.

Mr. Dawson: Do you mean like the Norris law?

Mr. Wegenast: Enlarging the employer's liability by taking away his defences.

Mr. Dawson: No State in the United States had adopted anything like the Norris law, or the law I have described except Ohio, and one Federal law where they replaced contributory negligence by comparative negligence, and modified the assumption of risk.

The Commissioner: It did away with the doctrine of common employment.

Mr. Dawson: Yes, the doctrine of common employment was done away with entirely. This has happened, however, that after the decision was given in New York to the effect that the New York Compulsory Compensation Act, so-called, was unconstitutional, a number of States adopted the Ohio way of dealing with the matter at the same moment that they adopted a companion act, the purpose being to give a very strong incentive to employers to come under the Compensation Act.

Mr. Wegenast: That is to get over the constitutional difficulty.

Mr. Dawson: Yes, it was a mere subterfuge. In this case they also added this to it, in case the employer did not come under the Compensation Act he would lose the right to sue on the basis that these special defences are not available. In other words they would become available immediately.

The Commissioner: Are you in a position to say whether there has been sufficient experience to demonstrate that any system, if adopted now, is one which would be likely to be reasonably permanent?

Mr. Dawson: I think the German system will certainly be permanent. That is the opinion of all close students of this thing in the world to-day.

I would like to bring out something that Mr. Wegenast intended possibly by his last question. You asked me about other countries, about destroying the defences. There is one country that gives a very interesting example, and that is Switzerland. I think it is a particularly good example because it is a more democratic country than yours or mine. They have been the most backward country in Europe in this matter. At one time they gave a mandate to their Parliament to pass an act, and they did pass an act, I think, with only three or four dissenting voices in the two Houses, and because it required the friendly societies and mutual associations of employers to bring themselves to a reasonable degree of solvency, they had a referendum on it and kicked it into the street, but meanwhile they kept insisting upon the enlargement of the right of the employee to recover under the existing system and also without regard to these special defences, until they wiped out all these defences. Now, the effect of that has been, as was found when there was an investigation made in Switzerland in 1900, that the Swiss employers are paying for employers' liability insurance somewhat more money than would be necessary to give very liberal compensation on the basis of, I think, 70 per cent. of the wages in the event of disability under a State insurance system. They investigated just what the employers had paid, and they also carried on a careful investigation as to what the accidents were, and how long they were disabled, and various things, and they came to that conclusion.

THE COMMISSIONER: When you speak of State insurance let us see what that means. It has been suggested here it is not State insurance but the management of the fund by the State—the collection of the fund, the adjusting of the claims and the administration of it. I suppose that is a form of State insurance.

MR. DAWSON: That is what we mean by State insurance.

THE COMMISSIONER: Would your idea be that the State should guarantee the payment?

MR. DAWSON: The State virtually does that through its power of taxation. It does not mean it guarantees it to be paid out of the general fund, but it guarantees it will require the employers to pay enough to do it.

THE COMMISSIONER: Now, if the legislators find themselves in this position, that a new proposition was being made involving very serious consequences, and that some countries somewhat similarly situated had recently adopted laws upon what is suggested as the best line, and came to the conclusion that it was not prudent to put a law upon the statute book this year, would you think it desirable that there should be a temporary law getting rid of these three doctrines which stand in the way of the workmen getting compensation in the majority of cases?

MR. DAWSON: Personally I would not.

THE COMMISSIONER: You think it would be better to wait?

MR. DAWSON: Yes. I do not think it is needed for educational purposes. It seemed to me then and it seems to me now, too, your Lordship, as if it is subverting our ideas of justice. In other words I regard our present Employers' Liability law as it stands with very slight modifications, if any, as just between man and man, if the payment was finally going to rest on the shoulders of the man who was going to pay the money just now. Of course the judges of the courts in your country and in our country and in Great Britain have worked ouut the principles of that law from principles of humanitarian justice, and applicable to every relation of human life. The one mistake that the judges made was not a mistake that arose from their consideration of the subject, as between this individual and that individual man; it was an error which arose from the economic nature

of the employment, and so one which could not be foreseen until we had a much greater and more highly organized economic development.

THE COMMISSIONER: There should have been the same economic development in the law.

MR. DAWSON: That is what I think, but that economic development could not very well be made by the judges.

THE COMMISSIONER: They have done a good deal.

MR. DAWSON: They have, but they could not do it all. We have a lawyer in the Bar Association who gave a minority report, which I will be very glad to leave with your Lordship, in which he reasons out that it would be possible for the courts to do the whole thing, that they could absolutely subvert the existing rules they have established and establish entirely new ones on different principles. He was a minority of one man.

MR. GIBBONS: Do not some employers escape liability at the present time by making rules, and the breaking of those rules is considered contributory negligence? Do they not escape by making rules that it is not practical to carry out, and which they do not expect to be carried out?

MR. DAWSON: I could not answer your question in the way you state it to me. I know that is a conceivable thing, but that it is actually done I hesitate to say. I fancy his Lordship could answer the question very much better than I could.

THE COMMISSIONER: What has impressed Mr. Gibbons with that idea very much is that he is acting for the Street Railway employees, and he is thinking of a Street Railway Company. They have two classes of persons to deal with, the employees and the travelling public.

MR. DAWSON: Precisely.

THE COMMISSIONER: And when they lay down these rules they want to guard themselves against claims of passengers, and it is in their interests therefore to have a set of rules for the guidance of their employees. I do not think that any company deliberately sets to work to make rules in order that they may catch their employees if any accident happens to them. I cannot believe that. I think it is rather the other way, in dealing with the double-headed danger that they are under, that these rules are formulated.

MR. GIBBONS: They must know that under the operation of the road as they want it operated, it is impossible to carry certain of the rules out. They say a trip must be made in a certain time, and they state you must go at such a rate of speed down a certain hill, and you must bring your car to a stop at such a place, and you must have it under control at other places, when actually they must know, if they ever think of it, that you could not do it in probably double the time they allow you. The law must be broken, and in case of an accident if that man was running down hill at a rapid rate of speed, and the car jumped the track and he was killed, they would escape liability on the claim that he was breaking that rule and violating the rules of the company.

THE COMMISSIONER: It just operated the other way in a case that was tried the other day. A woman was suing on behalf of her children. Her husband was bicycling and came into collision with a car, and one of the principal grounds relied upon for her recovery was, that by the rules of the company the motorman when he came to the grade should have shut off his power and let his car coast down the incline. Now, that rule was not made to catch the employee at all. That rule was made for the protection of the travelling public.

MR. GIBBONS: But, your Lordship, suppose the accident had happened to the motorman and he had been thrown from the car, would it not have worked against the employee?

THE COMMISSIONER: If the rule was that going down the grade he should shut off his power why would he not obey that rule?

MR. GIBBONS: Because possibly he could not make the time, and if he did not they would not have any use for him.

THE COMMISSIONER: Your Union is strong enough to guard against that.

MR. DAWSON; One of the most terrible accidents we had in New York revealed that it was the fact that the greatest railroad in America was expecting its employees regularly in the tunnel there to run past signals at full speed. It was a thing that none of us could have been led to believe until it came out. When we looked into it we found the New York Central was regularly expecting the engineers to send the train down that tunnel at full speed past those signals.

THE COMMISSIONER: What was the object of the rule?

MR. DAWSON: I think the rule was much like what has been stated. It was for the purpose of pointing to the rules in case of ordinary accidents, but they did not expect such a terrible thing to happen. It upset their calculations.

MR. BANCROFT: You said you believe the Employers' Liability Act of the present time between man and man is just, with certain modifications?

MR. DAWSON: If it was really a question between John Jones over here and Frank Robinson over there, and if it was a question of the money coming out of John Jones' pocket, and not being shifted to anybody else in any way, I do not believe that the reasonings which the courts have used, and out of which this thing has been developed are on the whole erroneous or do wrong. The reason why the system itself is wrong is because what we have really been doing is permitting John Jones over there, who in this matter is only an intermediary between the community at large as consumers, and the community at large as producers, to be dealt with and treated precisely as if it was his loss. That is where the whole objection is and just on that account, if no other, I would not be in favour of a workmen's compensation system which held the employer individually liable.

THE COMMISSIONER: I may tell you that you are running foul of the fundamental principles that Mr. Bancroft has laid down.

MR. BANCROFT: He just spoke in the way I wanted him to, your Lordship: Mr. Wegenast, I think, knows that too.

I would like to point this out, Mr. Dawson, where it has ceased to be John Jones' liability and is a cost to the consumer then that law becomes economcially unjust, doesn't it? That is why we have all these changes.

MR. DAWSON: Oh yes, that is true, but it should be replaced by a just law and should not be merely destroyed. As to the kind of law to have is the point.

THE COMMISSIONER: It is left with the individual responsibility remaining.

MR. WEGENAST: We have here in addition to the common law the Chamberlain law of 1880, throwing on the employer the burden of accidents for defective appliances, and through the neglect of vice-principals, and that sort of thing. Now, would you say this is too strong a statement, that with the common law and that Act we have filled out the full measure of the individual employer's responsibility as a matter of natural justice? Does he fulfil his whole duty as an individual employer when he bears the burden of the common law?

MR. DAWSON: If he were to bear the burden. He does not do so now, and that is not the actual fact under any system.

MR. WEGENAST: What I mean is, would you put him under any further individual liability? Would you throw upon him any further liability by way of abolishing defences?

MR. DAWSON: I would not say there were no changes I would suggest, because I would need to study the law and know precisely what it does, but I will say that I see no reason why on the theory of the individual liability of the employer, there should be any serious change of the existing law.

THE COMMISSIONER: Was it not a fundamental error to say a man when entering an employment undertook the risks of that employment and the risks of the carelessness of his fellow-servant.

MR. DAWSON: The fellow-servant rule is a rule that even from the other standpoint we would all agree should be modified considerably, if not entirely. The assumption of the risk I am not quite so clear about, your Lordship.

THE COMMISSIONER: When it is compulsory for a man to do work he has no choice. He has got to work, and no such thing enters into his mind that he is taking any risk in going into a particular employment, unless it is a very hazardous one.

MR. DAWSON: On the theory, however, that it is a question whether he should lose, or the individual employer should lose, I am not at all clear that the assumption of the risk is not at all a correct proposition.

THE COMMISSIONER: As far as risks that are incidental to the trade and that are not due to the negligence of the employer at all then that is sound.

MR. DAWSON: It seems to me so.

THE COMMISSIONER: But when you get beyond that, and when you say that while he has no choice of the man with whom he is working, or the foreman over him, that he should take all the risk of their carelessness, it seems to me to be a fallacy.

MR. DAWSON: Oh yes, that is unsound, and it has been greatly modified by the courts where the legislators did not modify it.

THE COMMISSIONER: Then there will be all sorts of trouble even under this law in determining where an accident arose, or an occupational disease occurs in the course of and arising out of the employment. Have you anything to help in the solution of that difficulty?

MR. DAWSON: I think I have something but I am afraid if I enter into it to-night it will leave room for the question as to contribution. I personally am of this opinion, and I have worked this out largely in connection with my assistants in devising those plans of mutual insurance where employees and employers both contribute—I am personally of the opinion that both on economic and State grounds, communal grounds, and also for the purpose of avoiding just such difficulties as your Lordship has mentioned that we ought to introduce, taking our cue from the experience of other nations (I am speaking now of my own country, and how applicable it is to yours I leave you to judge) some more comprehensive system than one that is confined to the idea of occupational accidents only. Now, all countries that have dealt with that question, including Great Britain, have found it was only a first step, that there were other things that needed to be done, and needed to be done soon. I expressed the opinion before the Federal Commission that the workingmen would contribute with a degree of relief of soul, and satisfaction, and even soul consolation, that that Commission absolutely had no sense of, if they were at the same time covered against all accidents, and still better if they could be covered against all sicknesses; and that they would contribute liberally, I know this by experience. I am not guessing about it. I see no reason why if this whole subject is approached

from the standpoint of the State itself as a public subject, as a public matter, and not as a mere redressing of a private grievance between two private parties in the State, why we should not also deal with that question. Now, for instance, to take the very least that could be done under that kind of an idea, why should we have any distinction such as you speak of? Why should we not create a fund which will take care of the family of the man in the event of an accident? We will leave out sickness entirely at the present moment, and just speak of accidents. If that were done then the employee would be covered whether he was hurt through anything arising out of his employment or not, and of course he also could be very properly called upon to contribute a sufficient amount, at least, to cover the non-occupational accidents, including accidents happening on Sunday or at night, and when he was not anywhere around his place of labour. It is really only by that means we accomplish all that the State desires to see accomplished, which is to see that the inhabitants will not be pauperized by the happening of these things which are beyond their own power to prevent.

THE COMMISSIONER: Suppose a case like this happened. I think it was the President of a cement factory who went into the factory and an explosion happened, and he was killed. Is there any reason why he should not be compensated also?

MR. DAWSON: There is no reason if that class desires to be embraced in it. In Bavaria they have extended the insurance to farmers so as to cover the employing farmers, and it is so satisfactory it has already started in other countries.

THE COMMISSIONER: In Ohio if the man works with his employees he is covered, or in Washington I think it is. Now, would it be actuarially sound, or is there any objection to it upon any other ground, to permit the workmen to contribute and give him what you are speaking of now?

MR. DAWSON: Why, it would be entirely sound actuarially, and very desirable.

MR. BANCROFT: You mean to cover non-occupational accidents?

THE COMMISSIONER: To cover all accidents.

MR. BANCROFT: But in the case of occupational accidents arising out of their employment it is not thought to make the workmen contribute, is it, Mr. Dawson?

MR. DAWSON: In my judgment if the benefit was confined absolutely to occupational accidents workmen should not be required to contribute. Now, that is not based upon any actuarial grounds.

THE COMMISSIONER: That is your broader proposition, that a workman should not contribute at all?

MR. DAWSON: Yes, but he obviously should contribute if it covers anything beyond occupational accidents.

THE COMMISSIONER: Now, all these accident insurance companies have an age, 65 or 70, at which they shut you off.

MR. DAWSON: Yes.

THE COMMISSIONER: If they find that essential, why is something like it not necessary with any proper State insurance system?

MR. DAWSON: Well, I don't think it is, for the reason that there again you have that question of public policy. If the State has not adopted any system by which it pensions its workmen who have reached a certain age, or made special arrangements for them, and if it expects them to enter into industry it must take a broader view than that.

THE COMMISSIONER: If you are going to pension a workman, why should you not pension everybody?

MR. DAWSON: I do not think that I have any particular reason to give why you should not. I do not know that I am quite prepared to enter into the subject of pensions, but I mentioned that for this reason, that if you do not do it and the workman reaches 70 years of age and is still penniless, and has responsibilities resting upon him and is still capable of labour, he should work as a matter of State policy.

THE COMMISSIONER: I suppose Mr. Bancroft would be insulted if I said I was a working employee, but I think I am just as much as he is.

MR. BANCROFT: We have not any objection to that.

MR. DAWSON: My own view concerning pensions would certainly embrace men in your occupation.

ELEVENTH SITTING.

LEGISLATIVE BUILDING, TORONTO.

Wednesday, 24th January, 1912, 8 *p.m.*

Present: SIR WILLIAM R. MEREDITH, *Commissioner.*
MR. W. B. WILKINSON, *Law Clerk.*

THE COMMISSIONER: Before you enter upon the second branch of the inquiry, Mr. Wegenast, I wish to ask Mr. Dawson one or two questions.

What would you think of allowing the Board, whatever the Board is, to pass upon these things, to make a deduction from the amount of the statutory allowance in case of serious misconduct on the part of the employee causing the accident?

MR. DAWSON: The only reason, your Lordship, that I have any hesitancy about answering is, in our slang vernacular over in the States, that I am from Missouri. In other words, I do not know that I recall any place where it has been tried, and I am always a little fearful of the thing which has not been tried, and a little disposed to be exceedingly careful about it.

THE COMMISSIONER: I do not know whether it is in your system or not, but in the British Admiralty system there is a rule whereby if two ships are to blame the loss is divided?

MR. DAWSON: Yes, we have a rule of comparative negligence now in the States and in our federal legislation relating to railroads.

THE COMMISSIONER: Might it not be somewhat on the same lines as that?

MR. DAWSON: I should think if it were well guarded it might work all right.

THE COMMISSIONER: I can understand the hardship from one point of view, if the employee were a man with a wife and family and were killed. Suppose it is some young fellow who has no claims at all and he has only been injured, why should there not be power to say to him: You brought this largely upon yourself by your serious misconduct, and you will not get as much as if you had not done that?

MR. DAWSON: I cannot at the present moment think of any serious objection to it, but I have not known it to be tried. I do not feel sure, therefore, how it would work, but I do think that it would have many things to commend it.

THE COMMISSIONER: I suppose off-hand it would be very difficult for you to express even a very general opinion upon the question I am going to ask you?

MR. DAWSON: Before we leave the last question, it occurs to me that if you put up a system which has no other means of encouraging prevention on the part of employees but that, it might serve a very useful office, depending very largely on how wisely it was administered, and how infrequently it was made use of.

THE COMMISSIONER: Taking a Province such as ours, large in area, and part of it very sparsely occupied, and assuming there are 175,000 employees of all kinds, what would you think roughly would be the cost in dollars of administrating a system such as you have outlined?

MR. DAWSON: If your Lordship will permit I would like to give that some attention and communicate with you.

THE COMMISSIONER: Very well. If a Provincial Board were established to deal with this, of how many members should it be composed, in your judgment?

MR. DAWSON: That, of course, is largely a question of the experience in different countries. In our country we generally find a large Board is unwieldy, and I should say, according to our experiences, not more than five persons, and almost preferably three.

THE COMMISSIONER: Then what would be the best material out of which to constitute such a Board, supposing it were three men?

MR. DAWSON: I should say unquestionably one person distinctly representing the employer class and one distinctly representing the employee class, and if there were only three the third would be some person whose judgment as an attorney the administration would have confidence in. If it were five I would be disposed to add for one of the others a physician.

THE COMMISSIONER: What would you think of a man with some actuarial knowledge, or would you make him an adviser of the Board?

MR. DAWSON: That would be a capital thing to do, if you found somebody who knew something about it from a public standpoint. The actuaries who are trained for private insurance frequently have a great deal to unlearn before they are adaptable, but a young man who has been well trained, or a man who has been full of this subject and has ideas upon it and has had some mathematical experience, and preferably some legal experience too, so as to know what he is dealing with, would be a valuable man.

THE COMMISSIONER: Would you want to be the third man in a trio such as you have suggested?

MR. DAWSON: If I were living here.

THE COMMISSIONER: With a labour man on one side and an employer on the other, would you not be in hot water all the time?

MR. DAWSON: I do not think so. I might give you a little illustration concerning that. When I leave you I am going to Providence, Rhode Island, for the eleventh investigation of a mutual society organized for the employees of a large traction company covering the entire state. Senator Aldrich was Chairman, and men of almost equal standing composed the committee. When organized it made provision for a board of two representatives by the public and three appointees by the company, one of whom must be the treasurer of the Traction Company. The

experience has been that the men are so fair, and even at times so critical about paying claims that the three members of that board representing the company not infrequently leave the entire settlement to those two men, and rarely is more than one representative of the company present.

THE COMMISSIONER: Is there any contribution by the men to the fund?

MR. DAWSON: Yes, but it is fixed and could not be increased, no matter how much the claims were. I personally would be entirely willing to act as the third member, if I were asked to and was living here.

THE COMMISSIONER: Would your scheme involve bringing within its range shop employees, such as in stores?

MR. DAWSON: The experience in most countries is it is certain to be extended to those employees. There surely is no principle which would exclude them, and unless there is some objection that occurs to you that I do not think of, I should say they should be included.

THE COMMISSIONER: Could there be a rough provision for a first payment provided for, to be adjusted at the end of the year? Could it be done without much calculation?

MR. DAWSON: It would require quite a good deal of careful calculation, the main purpose being to be sure it would be enough, but it could be done, and undoubtedly could be safely done, especially if you did not set up a capitalized value scheme. If you did that, then it would involve the scientific accuracy of the whole proposition, and it would be much harder.

THE COMMISSIONER: Mr. Wegenast seems to be wedded to the idea that there should be a grouping of trades, and he suggests, as I understand it, large groups, such as one including the metal people. Would there not be great variations in the hazards in the different branches of the metal trades?

MR. DAWSON: Yes, but I do not understand from what he has said to me that he would expect the entire metal trades would be charged the same rate, but only that in considering these trades they should be dealt with in groups. Of course I do not know anything of the testimony previously taken. There is no question that the metal trades, for instance, would cover hazards all the way from very light ones with very small rates, up to very heavy hazards with very heavy rates.

THE COMMISSIONER: What is the advantage of that system over a system which differentiates according to the hazard of the different businesses?

MR. DAWSON: If you are to deal with it virtually on the assessment plan there is this difference, that if the aggregate losses in your metal trades exceed the losses that you have figured on in making your rates, then you can increase all rates in the metal trades by application, and it will probably work out reasonably well. If we undertake to grade insurance by hazard—we are only really guessing as to whether they have the same hazard or not, basing our guess upon experience in countries where the real facts may be different from here. I found, for instance, in my investigation of rates and costs that certain classes would have approximately the same hazard in Norway, and a very different hazard in Germany, and when I examined into it I found it was because of the difference of the ways the two trades were carried on in those countries. In Norway it would be carried on in relatively small shops, and in Germany it had grown into a moderately centralised trade, run under greater pressure and with powerful machinery, and so on, and I think therefore a classification of hazards for the

purpose of assessment would not work out well. Let us assume, for example, that we find by investigation of the rates now charged in Norway or in England, for ordinary employers' liability, that a manufacturer of clocks, a retail druggist, and a hardware dealer exhibited the same hazard. Suppose during the year it shows on account of heavy losses among the retail druggists that the aggregate losses of that group ran beyond what we had estimated and we wanted more money from them, I think there would be very great complaint from the hardware dealer and the manufacturer of clocks about that.

THE COMMISSIONER: Would that not all be met by readjusting the rates?

MR. DAWSON: Yes, but the readjustments cannot be made every year. They must be made for a longer period. But you may have to collect a little more money. On the other hand, if you can group together all the metal trades they understand there is relationship among themselves, and if it happens that the hardware dealer contributes a heavy loss that year they are willing to wait for five years, for instance, to get the readjustment.

THE COMMISSIONER: Would you call a man who is a vendor of metals in the metal trade?

MR. DAWSON: I think so. I would make it a broad grouping so that people who trade with one another and have some similarity would recognize that relationship.

THE COMMISSIONER: Would it be necessary to enumerate what particular industries belonged to these classes?

MR. DAWSON: It would in a broad way, and then if possible give power to your Commission to do the final grading.

THE COMMISSIONER: I suppose in ironworkers there would be a great difference between a bridge builder and a blacksmith?

MR. DAWSON: Yes. Those two will not probably fit.

THE COMMISSIONER: You would put him in the same class?

MR. DAWSON: Merely for determining whether the aggregate amount of premium you get from that whole class is sufficient. Bridge builders alone would form too small a class to give any real average. That is the purpose of it.

I would like to speak a little on classification. For instance, in Germany they class in the drug and chemical trade everything from the ordinary retail chemist who has not any hazard at all to amount to anything, to the manufacturer of high explosives. They are all in one group and they have their rate of assessment fixed and that is fixed for a term. Usually in Germany it is for five years. Then the aggregate losses in that whole class at the end of the year are assessed according to those pre-arranged rates of assessment upon all the members of the group. The retail druggist has a very low rate of assessment and the high explosive man a very high rate, but the total amount of assessment they pay is determined after all by the aggregate losses for the group for the year. That is the idea.

THE COMMISSIONER: It would make great trouble in making your assessment if you sub-divided them into so many classes?

MR. DAWSON: You can leave them all in one class. In the Province of Ontario it might work all right. I am not at all positive on that. You might do that. I judged by something Mr. Wegenast said that his notion was if those in related industries were tied up together in some way they would exercise a great deal of influence upon one another for prevention purposes. I think that is his idea.

THE COMMISSIONER: Why wouldn't the mass exercise the same on one another?

MR. DAWSON: The mass bears little relationship with one another, your Lordship. The people engaged in the metal trade do come somewhat into touch all the way through, for instance.

THE COMMISSIONER: Of course this would be largely experimental, and you are only feeling your way as to the best method all the time, I suppose.

MR. DAWSON: No doubt, but in general the principles of the German method have worked best.

MR. WEGENAST: I wanted to ask Mr. Dawson whether I was correct in this theory which I am propounding in the latter portion of my brief, that the remedy for all sorts of discrimination in sub-classification. His Lordship has raised the question whether by throwing the same burden on the careful employer as on the careless employer would not be discrimination, and my answer to that was to be that you could put the careless employer in a different class. You could group the industries into as many sub-classes as it was found advisable, and that the remedy for every ill in the shape of discrimination or in the shape of defective means of prevention was sub-classification. What do you say to that, Mr. Dawson?

MR. DAWSON: They do in Germany without hesitation apply a discriminating rate of assessment, as, for instance, to an iron moulder who has antiquated machinery and is unable or unwilling to put in the latest and best means of prevention. I think they would also very likely discriminate against him if he retained in his employment some superintendent or inspector to whose carelessness disasters had repeatedly been traced, although about that I am not certain. I think if any such discrimination is undertaken, however, it must be with the greatest possible caution, because the mere fact that a particular employer has had more losses than another is not proof that he is greatly careless. The number of employees is usually such that there is not a safe average in his employment from year to year, or perhaps even from decade to decade, and he may have been more careful than the next man who had few losses according to the fact.

MR. WEGENAST: In the metal trades it would be quite practicable to arrange the sub-classes in such a way that the hardware dealer would pay say one quarter the rate. He would be put, say, in the third class, and pay one quarter the rate that the manufacturer of bolts would pay.

MR. DAWSON: Quite so. The exact proper gradations as nearly as they could be arrived at from previous experience would be applied.

MR. WEGENAST: I have observed in the Norwegian system the risks were divided into sixteen classes, and the first three, A, B, and C, are not yet filled, and I have guessed that the idea might be that those three classes were left empty to hold out something for emulation.

MR. DAWSON: To encourage making such improvements that they would get into them.

MR. WEGENAST: So that Class "D" might try to get into Class "A"?

THE COMMISSIONER: That would be only by trades.

MR. WEGENAST: That is within the trades. These are sub-classes within the trades, I believe.

MR. DAWSON: The classification that is referred to, your Lordship, is the grouping for purposes of assessments of trades or businesses within the trades,

classified according to hazard. The Austrian system has the same thing with classifications numbered from "1" up to a high number, according to the estimated hazard.

MR. WEGENAST: So that within the classification of industries you have subclassifications by hazard?

MR. DAWSON: That is right.

THE COMMISSIONER: While it might be practicable under the German system to allot an amount on account of bad machinery, or some of the causes you have mentioned, there would be great difficulty in doing that under a Board such as we have been talking about.

MR. DAWSON: They did it in Norway where they have a State system with a Board. They did it in this manner. The Board is given the privilege of reducing the rate not beyond a certain percentage below the average that is fixed for that occupation or trade, and also of increasing it not beyond a certain percentage, the first of those being because of improvements in prevention, and the second as a penalty for the opposite.

THE COMMISSIONER: That would involve an investigation into the plant of the particular manufacturer?

MR. DAWSON: Yes, but that is a very important thing for the Board to have done by somebody.

THE COMMISSIONER: It is a pretty big undertaking?

MR. DAWSON: Not so very. If you could unite your present factory inspectors with it, you see you would only be doing the same work as is being done now.

THE COMMISSIONER: It depends on how many factory inspectors you have.

MR. DAWSON: You might have to increase the inspectors, but you would get better work.

THE COMMISSIONER: Now, what would your idea be as to the finality of the decision of the Board?

MR. DAWSON: Before answering, might I ask is it the idea that the Board would first fix the award?

THE COMMISSIONER: Assume that. If the parties have agreed of course there is nothing to be done, I suppose, except to see that it is carried out.

MR. DAWSON: The parties would be the Board on one side and the injured on the other, so it would be a question of the Board fixing it. If it is to be fixed in the first instance by the Board, according to experience it would be wise to have some body to which an appeal could be made.

THE COMMISSIONER: Of what character? What kind of an appeal?

MR. DAWSON: The way they do it in Norway, which is most closely similar to what you have suggested, is instead of the Board passing upon it in the first instance the manager of the fund, who gives his whole time to it and is on the job every minute, does that, and there is an appeal from him to the Board. I think that would be satisfactory.

THE COMMISSIONER: And make that final?

MR. DAWSON: Yes.

THE COMMISSIONER: Very few questions of law could arise, I suppose, under that system?

MR. DAWSON: Of course in no country do they make that final as to the construction of the law itself.

THE COMMISSIONER: Upon questions of law there would be an appeal?

MR. DAWSON: They do not ask the Board as to the statutory construction anywhere.

THE COMMISSIONER: You must not leave a hole or they will drive a coach and four through it.

MR. DAWSON: I should think not if nothing was left but the construction of the act itself. For instance, if the amount of the award, if any award was to be made, and so on, were left untouched entirely and were not subject to review by the court, and it became purely a question of the construction of the statute as to whether it was applicable to his case at all——.

THE COMMISSIONER: That, in effect, is the British system. There there is no appeal except on a question of law from the judgment of the County Court, and a good many cases have gone up to the House of Lords upon questions of law. Now, if you have it, as probably it would be necessary in any such systems at present, that the accident must arise out of and in the course of the employment, that is a question that raises the most difficulty.

MR. DAWSON: I know it is.

THE COMMISSIONER: That would be, I suppose, a question upon which you think there could be an appeal to the courts? Or do you think that?

MR. DAWSON: That, after all, is hardly a question of statutory construction. It is a question of fact as to whether this was or was not during the course of employment.

THE COMMISSIONER: The House of Lords did not think so. They treat it as a question of law.

MR. DAWSON: Is that necessarily a question of statutory construction?

THE COMMISSIONER: No, it is the application of the statute to the particular case.

MR. DAWSON: Yes, but what I suggested was that only statutory construction should go to the courts.

THE COMMISSIONER: That is a very limited field.

MR. DAWSON: That is it. It should be a very limited field. But supposing your Commission was obviously exceeding its powers and was acting in an arbitrary manner not called for by law, and there were certain evidences of it? Supposing they were putting an interpretation upon the statute itself which appeared to be erroneous?

THE COMMISSIONER: Illustrate that by a concrete case, if one occurs to you?

MR. DAWSON: I do not know that I can do it. I am giving it very roughly, I am sure.

THE COMMISSIONER: Perhaps it might be as to whether the man was entitled to so much money, whether he came within the act?

MR. DAWSON: Well, I would not really like to give a concrete instance. I haven't any in mind. I am told in these countries where they have provided that only question of statutory construction could go to the courts, as I understand to be the case in Norway, that almost no cases have gone there.

THE COMMISSIONER: Then just one more question. You have heard Mr. Wegenast's statement and you know pretty well what it is. I would like to know if there is any joker hidden anywhere in his proposition?

MR. DAWSON: I am sorry to say that I do not know what is his proposition altogether. I have not seen any measure drawn up, and therefore I have no knowledge of how anything of that sort would come in. So far as the general situa-

tion is concerned, after you have concluded, if you do conclude that the principle upon which compensation should be paid should be changed, when a change is made it should be such as to call for payments by the employers according to the hazard of the industry, and that the question of how the money shall be raised, whether assessed to provide capitalized values or on a current cost basis, and the question as to how the fund should be administered is one necessarily in which the employers, if they are the only ones to contribute, will have a paramount interest next to the general public itself, and a method which will impose temporarily the least burden on industry, and in the end no greater burden than any other method, the payment of claims themselves, and which will impose the least burden of cost of administration, is obviously for the interest of the employers first; but second, and much more important, to the people of Ontario and Canada in general, because it is just so much waste obviated, and it is just so much money kept in the industry, which if withdrawn from it will not readily find its way back into those channels, and I know of no joker or trick which could be accomplished under it, nor do I suspect any desire whatever on the part of Mr Wegenast or his associates to do so. I would like to say in that connection, your Lordship, that I am not here under a retainer in the ordinary sense at all, as you well know, and I shall be very glad when the bill is framed to examine it carefully for you, and I give you my honour I will point out any jokers that I can see.

THE COMMISSIONER: The manufacturers have nothing to do with framing the bill.

MR. DAWSON: But if through the ideas they put forward there should be anything that might work that way I will be very glad to point it out for you.

THE COMMISSIONER: I know you will be fair according to your lights, and that is the best that any of us can do.

The British Act, and I fancy other acts, exclude from the benefit of the compensation casual employees. What is your idea about that?

MR. DAWSON: I think the only reason that any act does that is because of the great difficulty of covering them. It is not a good thing from the community standpoint to exclude them, but per contra it is almost impossible to include them and collect a premium. It is difficult to find them, and still more difficult to find the men who employ them.

THE COMMISSIONER: Do you understand under a system by which the rate is based upon the wage-bill that the wages paid to casual employees are excluded?

MR. DAWSON: Virtually so, yes. You see the casual employee is very much in the position of a self-employed person. The distinction, for instance, between a shoemaker who is doing a job for you and you pay him for it, or cobbling, and the boy whom you meet in the street and ask to run an errand for you and hand him a quarter, is after all very little. They are both really self-employed people. It is possible to cover them, but it is difficult, and in the first stages of a thing like this I should think it would be exceedingly difficult.

THE COMMISSIONER: Supposing they brought in two or three men for a week or ten days?

MR. DAWSON: They are not casual employees.

THE COMMISSIONER: Why not within that definition? Is that not what it means?

MR. DAWSON: It should be defined so as to include them.

THE COMMISSIONER: It seemed to me the British Act was pretty loose upon that point.

MR. DAWSON: It is loose.

THE COMMISSIONER: I thought the idea was if a man came in to work a day or so.

MR. DAWSON: A day, or an hour, or something like that.

THE COMMISSIONER: Then he was not within the protection of the act?

MR. DAWSON: I have not studied the construction of the British Act particularly in that regard, but I suppose that would be its construction.

THE COMMISSIONER: I have never noticed a case.

MR. DAWSON: I am not familiar with it.

THE COMMISSIONER: Then another question, and this is the last upon this branch. Supposing, as will probably happen, but I hope it will be long before it comes, there is a very serious depression, what effect would that have upon a scheme of this kind?

MR. DAWSON: That is the purpose of collecting this reserve. Suppose you collect ten or fifteen per cent. (I think in Germany it is about eleven per cent.) extra, beyond the requirements each year, then if a depression comes it means the wage-bill for that year is much lower, and they will draw from that reserve a sufficient amount to cover the assessments that would be levied upon the remaining wage-bill, such as would have been paid if the time were as usual.

THE COMMISSIONER: Has that been found adequate?

MR. DAWSON: The amount has been unquestionably adequate, but they have not called upon it for a dollar. Since 1884 they have had no serious depression. That is a remarkable record, but it is a correct one.

MR. KINGSTON: I put a question to you last night with reference to the enforcing of collection of premiums in the case of a number of small employers, and I suggested if it might not possibly be well to say that unless the premium is paid the benefit of the act will not be applied. Your answer rather indicated that I had reference to the employee, but I meant to suggest in the case of an employer if he did not pay his premium might he not be left open to the old common law action against him, and make it a sort of negative compulsion. If he does not pay his premium in accordance with the schedules of the act he will not have the benefit of settlement for his accidents under the act.

MR. DAWSON: What they do in Germany is well worth telling, and perhaps it may help to answer the question. If an employer has failed to pay the premium, and also if he has failed to deduct the sickness insurance premium from the wages and pay it over to the sickness society, the employee is insured precisely as if it had been paid. During the first thirteen weeks he is covered by the sickness society, and the communal society takes care of him just the same. After the first thirteen weeks, if he is still disabled, the Employers' Association takes it up and they take care of him. Then they pounce down on his employer and find how much premium he should have paid, and they charge to him first the premium he should have paid, and secondly a fine which is an increasing one if he has played this trick before, and thirdly all the money they have had to pay on account of his employee, including the present value of what they think they are going to have to pay in the future. One or two such experiences generally make an employer very amenable.

MR. KINGSTON: Supposing the employer is very poor or practically insolvent and it is impossible to collect that? Suppose he is execution proof?

MR. DAWSON: There are some losses in all countries.

THE COMMISSIONER: The general fund would have to lose then, of course.

MR. KINGSTON: You are doubtless more or less familiar with the classification adopted by the liability companies?

MR. DAWSON: I am somewhat familiar, not extremely so.

MR. KINGSTON: Do you see any difficulty, for example, in the first year in starting this business off, instead of analyzing the whole situation from an actuarial point of view to adopt the employers' liability rates as the basis, and then do the same as the employers' liability people do, at the end of the year, ask that the excess premium be paid. You undersand the system?

MR. DAWSON: Yes, perfectly. I might give a little explanation of what I do understand. The suggestion is that the rate of assessment be fixed at the rate of premium now charged by the Employers' Liability Company, that to be computed on so much pay-roll for the year, and then at the end of the year, if the pay-roll has been more, collect an additional amount, and if it has been less a rebate. This might be all right. Whether it would be or not would depend somewhat on circumstances. Personally, I would prefer to know precisely what the benefits were going to be and to have an opportunity to compare with experience the result, so as to make it clear to my mind that it probably would be fair as between the different industries if it were done that way under these benefits.

THE COMMISSIONER: Would that not exclude this current cost, because these companies charge a premium to cover the capital cost?

MR. DAWSON: No. At present, you know, they charge a premium only sufficient to cover the employers' liability under the existing law.

THE COMMISSIONER: I know, but still it is to cover the capital expenditure.

MR. DAWSON: That might not be larger than is required conceivably, besides it was my suggestion that it be made somewhat larger, safely larger, than we thought would be required, so that you would not have a situation of an empty treasury and making an assessment at the end of the year.

THE COMMISSIONER: There is not much difficulty to be apprehended on that score I think if you start with a reasonable estimate of what the current cost plus the surcharge would be. It would be very easy to adjust it at the end of the year.

MR. DAWSON: That is my judgment. I think it would be easy to make out a schedule of rates that would be pretty reliable. They might require some readjustment at the end of three years, but I should think they would stand for that time. It must be taken into account that that rate is not meant as a fixed rate, it is meant as a rate of assessment by which you distribute a loss.

MR. KINGSTON: Then on that question of classification. You probably have seen the Employers' Liability Company's classification. There is, as you know, a builders' schedule, and metal schedule, and different schedules.

MR. DAWSON: It is a grouped classification such as Mr. Wegenast has spoken of.

MR. KINGSTON: Under the builders' schedule there would be probably a dozen classifications, and so on. I suppose under the ordinary liability company's rate book there would be a thousand different classifications and sub-classifications. Do you see any difficulty in practically adopting these well worked out classifications in a system such as has been suggested?

Mr. Dawson: With a reasonable amount of study and some simplification I think it would answer. I think it would scarcely do to adopt it outright, but with some reasonable study and investigation as to whether the new system might need serious changes in its relation to one another I think it would answer.

The Commissioner: Perhaps it would be better to go on with the other branch, and ask Mr. Dawson to supplement it by a memorandum.

Mr. Wegenast: There was a question raised with Mr. Boyd by either your Lordship or myself. Would you put the schedule of rates in the act itself, or leave that to the Board, if a Board were appointed.

Mr. Dawson: I should be disposed to leave it to the Board. In saying that I wish to qualify it in this way: If there are no reasons of public policy or of custom that would cause a contrary conclusion I do not see any serious objection to putting it into the Bill.

The Commissioner: I think under our system any readjustment in the classification would have to be subject to the approval of the Lieutenant-Governor in Council, because the Government is responsible for the system if the plan is adopted.

Mr. Dawson: That is not uncommon. There are other countries where it is first formulated by the Board, and worked out, and the approval is more or less perfunctory unless there is a serious objection from some quarter. I should say that system would be admirable and would work well.

The Commissioner: You could have it so that it has to be laid before the Governor, and if he does not dissent it will go into force.

Mr. Wegenast: That leads to another matter that is of very great importance, but which I hesitate to mention for reasons that will be at once apparent.

The Commissioner: After you mention them.

Mr. Wegenast: Yes. I am trying to account for my hesitation. We recommend in the brief which I have filed the organization of an independent State non-political Board. As I put it here, we recommend the creation of a State, non-political insurance department.

The Commissioner: You will have to find some uninhabited country to find that.

Mr. Wegenast: I think my idea will at once be apparent when I refer to the Dominion Railway Board and the Ontario Railway Board, and the other commissioned Boards which we have in this country which may be described as non-political, and are generally considered as outside the immediate scope of the system of responsible Government which we have here.

The Commissioner: You would exclude all manufacturers if you did that? They are generally in evidence, they say, some way or other.

Mr. Wegenast: I am not suggesting that the body should be composed of them.

The Commissioner: You must have somebody with ideas. I quite agree that it should be non-partisan.

Mr. Wegenast: That is the idea. In short, the Board should not be subject to what we call the spoils system, and I am speaking of that not only in the sense that the appointees should understand that their term of office continues notwithstanding a change of political complexion in a Government, but in the other senses that go along with it. It is pretty difficult to describe just what one means, but the general reference to the Railway Board of Canada I think indicates the scope of my suggestion.

THE COMMISSIONER: You have forgotten with the Railway Board, in some cases, at all events, there is an appeal to the Privy Council of the Government.

MR. WEGENAST: Yes, quite so.

THE COMMISSIONER: So the State controls the Board in a sense.

MR. WEGENAST: I was not referring to that. I would not like to see, and I am saying this advisedly as an officer of the Manufacturers' Association, the matter put in the hands of a Government Department under a Cabinet Minister. That is another way of expressing my idea.

THE COMMISSIONER: You have not discussed yet this question of how the fund is to be created, although it has been incidentally referred to.

MR. WEGENAST: I am not disposed to give any very serious attention to that. Mr. Dawson's views, I think, are known, and I have proposed to leave that over in the meantime for what I considered something a little more important.

THE COMMISSIONER: I would like to have got not only his views, but the reasons for the faith that is in him.

MR. WEGENAST: Is it your Lordship's wish that I should go into that now?

THE COMMISSIONER: We know what his views are, and I would like to know what the basis of them is.

MR. DAWSON: What you understand my view to be I hope is that I do not know of any reason based upon experience or knowledge of the working plans in other countries why workmen should be required to contribute to the payment of the occupation accident cost. I do know very good reasons why you should get rid of these border line questions and also make a system of this sort as highly beneficial as possible to the working men and their families, and thereby to the entire community. By having the insurance cover at least non-occupational accidents as well as occupational, thereby avoiding all disputes on that question, and if popular sentiment is sufficiently developed, also cover sickness, and when it does I am perfectly clear that the workmen should contribute and should contribute liberally to the fund. I am also equally clear that from my knowledge of how it has worked in other countries that they will contribute willingly, and in my judgment, in the United States at least, would to-day do so very gladly. That opinion is based upon personal experience such as in this association I spoke of where I found they contributed amounts as high as one per cent. or one and a half per cent. or even two per cent. of their wages. That is a pretty large contribution. When the benefits are such as to warrant it, and are such as in the opinion of not only workmen but practically the whole civilized world now ought to be borne by the industry, but are things which should be borne by them individually *en masse,* they quite see it and are ready to make contributions. If you should find it possible to work out a first-aid plan to take care of the earlier weeks, of some such nature as I am suggesting, I think that a contribution would be welcomed by the working men here, as I am sure it is everywhere else. That is, if contribution could be made so that just the moment an accident happened, whether it was one that came within the scope of "arising out of and during the course of employment" or not, assistance would be rendered and benefits would be paid, and, better still, if in the event of disabling sickness the same were done, I am entirely confident that a liberal contribution from the working men of Canada would not be resisted, but would be welcomed.

THE COMMISSIONER: I would like to have you tell us what your reason is for thinking that beyond the risks that are neither the fault of the employer

or the employee, the risks that are due to the fault of the employer and the risks that are due to the not serious negligence of the employee, due to modern conditions under which they work—a little inattention by the man in what he is doing, that strictly might be considered negligence—put those on one side, and say the workman is not to be deprived of compensation by reason of that. What is the justification for saying when you go beyond that, and when he is protected against his own negligence by this insurance fund, that he should not be asked to contribute to the extent to which he is protected?

Mr. Dawson: It does not appeal to me. I say that with a good deal of hesitation, but it does not appeal to me for this reason, that in the first place under any rational system of compensation the workmen make a very large contribution by accepting very materially less benefits than their entire earnings. That is when a man is disabled there is a loss of all his earnings, and something more, namely, his care and medical attention, and yet it is not proposed anywhere in this country or in the United States to give him over 60 per cent. So that he has made one very large contribution at the outset.

The Commissioner: That is a contribution he makes to those things for which he is the most responsible.

Mr. Dawson: Yes, and I think that will fully cover the cases that would be charged up to the responsibility of the workmen, the large contribution. The other objection I have to it is this: that if we have abandoned the theory that it should not rest on fault at all, why do we return to it for any purpose? In other words, if our impression is it is really after all a matter between the community in one sense and the whole community virtually in another sense, and we are only using this means of taking care of it as the rational one, then we have no reason to reopen the ground in order to discuss a merely cognate question. But my strongest objection is it has been tried and it has not worked well. In other words, again, "I am from Missouri." I have a theory like this as to my own country, and I have sufficient knowledge of Canada, and sufficient admiration of it, so that I will include Canada in the statements I made about my own country—I believe we have as good people and as good institutions as can be found anywhere, and therefore I believe if I find anything which has been done well anywhere else we can do it as well; but if I find it has been tried repeatedly elsewhere and it has not done well, and no good purpose has been served by it, then I am very slow to believe that if we tried it we would have good success with it. I quite appreciate if we have as good people and as good institutions as anywhere else we might succeed where they have failed, but I never feel sure of it. Now, they have required the employees to contribute to accident funds in Austria for very nearly a quarter of a century. I think it was commenced in 1887. The contribution to begin with was whittled down to ten per cent., altogether too small to really have any influence upon the workmen towards prevention. A very large proportion of the employers do not collect it. Those who did collect it, in any event, received the ill-will of their employees. It does not amount to enough to be really worth while, and it is pretty generally the opinion there that it has not been a good feature. It has adhered to it, however. The Austrian Government is very much disposed to do what it pleases and it has been adhering to it, but it is not regarded anywhere as having done well.

The Commissioner: The principal reason in which it would be justifiable, if at all, would be as the price which the workman pays for his insurance against his own carelessness.

MR. DAWSON: Yes, but even on that theory, as I pointed out, he pays a big price already.

THE COMMISSIONER: That is the strongest argument I have heard yet. The mass of them pay that.

MR. DAWSON: That is true.

MR. WEGENAST: What objection would there be to this, Mr. Dawson, as I have suggested, a clause making it optional with the employer on due notice, and perhaps with the consent of the Board, permitting the employer to deduct a certain percentage of the insurance premium?

THE COMMISSIONER: No matter what the opinions were, I would not recommend anything like that.

MR. DAWSON: It seems to me, too, your Lordship, that it is objectionable on this ground: that it puts a very big discriminating power in the hands of that Board, which I should think would draw it into politics. I mean there would be tremendous influences brought to bear.

THE COMMISSIONER: Then you would always have the employer making regulations and forcing the men to agree to them.

MR. WEGENAST: If a clause like that were contained in the act the employers in this Province, no more than the employers in Austria, would be disposed to enforce that unless occasion arose. It would be in every case a term in the contract of employment whether the deduction was to be made or not. It would be understood between the men and the employer when they entered the employment whether that was to be deducted or not. Otherwise, my proposition is that there would have to be a notice, a month or whatever you want to make the length of time, before the rule could be enforced. Now, suppose the employer found that the employees were careless in removing safety appliances, or whatever other form the carelessness might take, he could post up a notice in his shop, or the foreman could, warning the men that this contribution would be enforced unless the rules were observed. Do you see any objection to a power of that kind in the act under those circumstances? I can see myself there might be some objection, and it is only because I want to leave it open and be as reasonable as I possibly can that I suggest the consent of the Board. I would rather not have it, of course.

MR. DAWSON: I do see objections, and yet there is some force in the proposition, that it might have a deterring effect at times. Let us consider it first from the standpoint of no consent of the Board being required. The thing I fear about it is that it would be something which would be done, not by the wisest employers, but by the meanest. If the consent of the Board was required I would expect they would be bombarded with applications for consent, and having once consented for a few employers they could scarcely refuse it to others without being charged with discriminating. Then, again, their lives would be made miserable without any good result.

THE COMMISSIONER: Surely when once you have settled upon the principle you want it plain and simple, with practically no exceptions.

MR. DAWSON: I quite concur in that, your Lordship. It seems to me so. I do not, of course, pass upon the applicability of the thing to this country, but in general I would not like it.

THE COMMISSIONER: It would be at once said, from what we have seen here, that the men had been, perhaps not directly, but indirectly forced to agree to this. The very thing you want to bring about, a better state of feeling between employers and workmen, would be imperilled by such a thing as that.

MR. MILLER: It would cause friction and irritability between the parties.

MR. GIBBONS: Didn't Mr. Wegenast make the statement the other night that laws were not made for honest men?

THE COMMISSIONER: Laws are made for everybody to obey.

MR. GIBBONS: That was his statement, that it would be only necessary to make a law to check those who would be dishonest, or something to that effect.

THE COMMISSIONER: I think it would be very well, Mr. Wegenast, to make a provision that where a particular manufacturer made a better provision than the act makes for his workmen he should be outside the act.

MR. DAWSON: If you put in an insurance system such as we have been discussing I do not think any employer would want to be outside of the act. The only cases in Germany where they found there was such a thing were cases like the great Krupp works where they already had started systems which really were more liberal than the German laws, and Krupp kept it up, and so have his successors. They were taken out of the act so long as they maintained that. But I very much doubt if any employer in Ontario would wish to be ouside it.

THE COMMISSIONER: I think you told us your information was that the corresponding provision in the British Act is a dead letter.

MR. DAWSON: It is, and the proposed provision in the Federal Act which I have been asked to draft is certainly a dead letter if it is drawn in a form like that of the British Act.

MR. WEGENAST: Just in order to preserve my submission, which of course I want to stand, I put it in this way to Mr. Dawson: Do you consider that the highest degree of preventive care can be attained without contribution, or without having the pecuniary interest of the employee enlisted as directly as possible on the side of prevention?

MR. DAWSON: I am inclined to believe if you could devise a plan under which during the first week the benefits were taken care of as in Germany from a fund to which both parties contributed, provided that contributions also covered benefits fully equal to the employees' contributions other than occupational accidents, I do believe it would have the very effect it has in Germany, namely, of strongly enlisting the employees to prevent accidents and prevent sickness, and generally to improve their conditions in those regards, and it would be a very good thing.

MR. WEGENAST: You have observed the provision in the draft Washington Act, which was left out for reasons we need not discuss. You have observed the provision for a first-aid fund?

MR. DAWSON: I have an indistinct recollection of it, but in general I think it was this: That there was to be a contribution towards that fund, and it was to cover something beyond occupational accidents. Am I right as to the second point?

MR. WEGENAST: No, I don't think so as to the second point.

MR. DAWSON: Then I should not approve of it personally.

MR. WEGENAST: The provision is this, that a fund is created in the State treasury to be known as the First-Aid Fund, into which shall be paid by each employer on or before the 15th day of November, 1911, and each month thereafter, the sum of four cents for each day's work or fraction thereof done by each workman for him during the preceding calendar month or part thereof, and the sum of such four cents shall be deducted by the employer from the pay of the workman. Mr. Preston tells me that his intention was to have an equal contri-

bution from employers and employees. It might be well to explain the reason Mr. Preston gave me for cutting that out. He said the time was exceedingly short for the adjournment of the legislature, and a good deal of objection was raised because the contribution of two cents a week was as large in such industries, for instance, of mattress makers as it was in iron working industries. Now, for the sake of making the contribution definite Mr. Preston had put in the sum of four cents, two cents to be deducted from the wages paid. His idea was that they should contribute in equal proportion, but there was not sufficient time to redraft the section as it was going through the legislature. It had to be abandoned in order to get the act through.

THE COMMISSIONER: That was limited to accidents?

MR. WEGENAST: It was a first-aid fund to take care of the employees in case of accident.

THE COMMISSIONER: Only?

MR. WEGENAST: I think so. The draft act gives the scope of the fund.

MR. BANCROFT: Would you mind explaining? Does this mean occupational or non-occupational accidents?

MR. WEGENAST: I am looking for that. "Upon the occurrence of any injury to a workman he shall receive from the First-Aid Fund proper medical, surgical and hospital service, and compensation for the period of temporary or other disability in the sum of $5 per week, but not to exceed three weeks, payable at the end of each week. It shall be the duty of the employer to see to it that the immediate medical and surgical services are rendered, and transportation to the hospital provided, and all charges therefore shall be paid out of the First-Aid Fund." There is something further there than simply the money compensation of $5 per week, which is on the same basis as the $20 per month. There is the surgical attendance and transportation and hospital expenses in addition to that, but there is nothing of course about occupational diseases.

What would you say, Mr. Dawson, to a proposition which I am making in my brief as an alternative to a money contribution by way of a deduction from the wages? I may say that I have stated in my brief that contribution from the workmen may take three forms.

THE COMMISSIONER: Perhaps you had better not go into your brief, as our time is short.

MR. WEGENAST: I would like to put the three alternative forms before Mr. Dawson. The first was a money contribution, the second a contribution by way of a waiting period, of say four weeks, which I proposed to suggest, during which the injuries would be taken care of by a first-aid fund along the lines suggested by Mr. Preston's draft act.

MR. DAWSON: I should very greatly favour it if it was extended to take care of all accidents, whether occupational or not, and still more if it would take care of sickness. I have this impression that a great many employers, if they would sit down and consider the matter, are out of money a good deal on account of sickness and non-occupational accidents, through voluntary assistance, and through loss of time in the factory or shop which could have been avoided if it had been given attention, and so on, and they could very well afford to thus extend it. I very much doubt its wisdom otherwise. Experience in other countries has been this: For instance, in Norway they left thirteen weeks off just like they did in Germany in the hopes that there would be voluntary forms of sickness insurance.

but after waiting some sixteen or seventeen years for those voluntary societies which should have been formed they had to pass a Sickness Insurance Act and provide for compulsory contribution from both employers and employees to fill that gap. I think that something like that would be extremely desirable. I would very much rather see it, for instance, than to begin at the first day or the end of the first week, or even the second.

MR. WEGENAST: You would rather have the period extended a little and start that fund?

MR. DAWSON: That is it.

THE COMMISSIONER: The experience of Norway does not give much hope of it being vountarily undertaken?

MR. DAWSON: I quite concur, and that experience has been the same in other countries too.

MR. WEGENAST: Would it be possible to frame the act in such a way that there would be a stronger inducement for the formation of these funds?

MR. DAWSON: Well, the inducement was made pretty strong. Every encouragement they could give was given in Norway. I really cannot think of anything that could be put into the act itself.

MR. WEGENAST: One thing I am thinking seriously about, your Lordship, is the question of preserving the first-aid and sickness schemes already in existence. One very good example of those schemes is that operated by the McClary Company of London, which I think you were told about by Mr. Gartshore. That scheme carries not only accidents but also sickness, and includes the services of a nurse, who is sent out in case a man does not turn up in the morning for work. He says, by the way, that this man often reports reasons for the absence of the workman which leads to the discharge of the workman.

MR. DAWSON: That will sometimes happen.

MR. WEGENAST: But in other cases it is found the workman is absenting himself because of illness in the family, and the nurse very often takes charge in a case of illness of the wife or children and lets the man go to his work. That will indicate something of the scope of the work of these institutions, and I am exceedingly anxious personally, and I think I am representing my colleagues, when I advocate something that will preserve some scope for those institutions and there are a great number of them. There are far more than I realized when this investigation began.

THE COMMISSIONER: Would the practical way of meeting that not be to ascertain whether the large body you represent would be willing to make it part of the Act that there should be a first-aid scheme such as Mr. Dawson suggests, the employer contributing half and the employee the other half. That would be a pratical way of geting at it.

MR. DAWSON: You would be far in advance of anything that has been done in this continent if you did it, and I am certain it would work well. I have had a number of years personal experience of those things, and I know it would work well.

THE COMMISSIONER: That would help to relieve the unions of some of the burdens they now bear.

MR. DAWSON: Yes, and if it were done under the compulsion of the law there would not be the objection to the voluntary schemes that you have, that they are

used to break up the union, which objection is not entirely visionary by any means.

MR. WEGENAST: I cannot off-hand commit my colleagues.

THE COMMISSIONER: Mr. Dawson has thrown it out, and I am suggesting that for your consideration.

MR. WEGENAST: I simply said that to qualify what I intended to say, that I would think that such a proposition would be supported by the Manufacturers' Association.

MR. DAWSON: I certainly would take great pride in its being done, and regard it as highly creditable to your Association and to your Province.

MR. WEGENAST: You would not carry your objection to the workmen's contributions so far as to condemn a scheme of that kind, if we put that scheme in operation?

MR. DAWSON: I should heartily favour it.

MR. BANCROFT: To get that matter clear as far as compensation for accidents is concerned "arising out of and in the course of employment," it is not based on experience to say that workmen should be required to contribute?

MR. DAWSON: The contribution of the employer and the employee in a plan which covers sickness and non-occupational accidents, as well as occupational accidents, would be nearer fair to the employer if it was two-thirds from the employee and one-third from the employer.

MR. BANCROFT: If it covered them all?

MR. DAWSON: Yes, because sickness is more numerous.

MR. BANCROFT: Supposing in the Province of Ontario we should have a Compensation Act which just covered injuries and accidents arising out of and in the course of employment, it would not be justice according to the experience of other countries to ask the workmen to contribute?

MR. DAWSON: I have already stated that.

MR. BANCROFT: If it was extended in its scope?

MR. DAWSON: So as to cover during the earlier weeks sickness of all kinds and accidents of all kinds, then I think it would be fair and just.

THE COMMISSIONER: Would it not be pretty difficult to get at a financial basis in that?

MR. DAWSON: That is easier than the accident.

MR. BANCROFT: We would really be going further than they have gone anywhere else. According to the terms that are used all over the world in those matters, in that case we would really be going further than Workmen's Compensation; we would be taking on social insurance.

MR. DAWSON: You would be taking on sickness insurance for the early weeks.

THE COMMISSIONER: Supposing that was not adopted and it was simply a scheme on your lines with disability lasting only a week or two weeks, should there be any compensation for that period?

MR. DAWSON: I should say not certainly for the first week, but in that case undoubtedly the idea that is being accepted over in the States, where they wish to give waiting periods of two weeks or longer, I think ought to be adopted. That is, that the actual necessary hospital or physician's expenses should be assumed.

THE COMMISSIONER: I suppose the main object of that is to avoid having to pay for trivial things that really need not interfere with the man going on with his work, and to guard against malingering.

Mr. Dawson: And also to guard against a man going on working that is not able to work.

The Commissioner: If you limit it to paying for the actual hospital and medical expenses there would not be any temptation to incur those expenses.

Mr. Dawson: Undoubtedly that is true.

Mr. Bancroft: Would I be right in saying, Mr. Dawson, that your views are in the case of a Compensation Act, where there was a waiting period of any kind whatever which was covered by a sickness insurance, that the burden of the compensation should be borne by the industry, or a tax, without contribution to the workmen, but in case of the other things being covered through a fund for sickness then the workmen should contribute to that, but not to the other.

Mr. Dawson: Let me make it clear. I would be utterly opposed to the workmen being required to contribute to a pure plan of workmen's compensation for industrial accidents, absolutely, but if there was coupled with that during the early weeks, for instance, a protection against sickness and non-occupational accidents out of a fund contributed both by workmen and employers, so that the results of occupational accidents, non-occupational accidents and sickness would be taken care of during those early weeks, I should then consider it would be entirely proper to ask the workmen to contribute, for the reason that they would be receiving benefit from that fund other than the occupational accident benefit.

Mr. Bancroft: In that case it would be like the German system?

Mr. Dawson: Yes.

Mr. Bancroft: Then in the administration of the fund for sickness insurance the workmen should have representation according to the percentage they pay?

Mr. Dawson: Surely, and in fact every employer has found, as I have explained already, it is wiser to have that representation.

Mr. Kingston: Has there not been some change made in the German Reichstag on that question?

Mr. Dawson: Yes, previously the employee was required to contribute two-thirds and the employer one-third, and the change has been to increase the employers' contribution to half and also to increase his representation to half.

The Commissioner: No question of that kind would arise under such a Board as you have suggested?

Mr. Dawson: No, but you would hardly take these early weeks of the sickness, too, and charge the Board with its entire management.

The Commissioner: It would have to supervise it, and do it under a subordinate body, I suppose.

Mr. Dawson: You would set up in each locality perhaps a little organization of its own, and the representatives would be selected by the employers on the one side and the employees on the other, under the strict supervision of the Board. Then it would be democratic in its operation, and experience has found that is the best.

Mr. Wegenast: Your idea is the body which would govern this benefit fund should be local?

Mr. Dawson: It certainly should be local. Whether there might not also be permitted bodies connected with large industries as an entirely separate matter should be left to that Board, but in the absence of membership in any such body

the man should be considered a member of the local body. That is the only way you could handle it.

THE COMMISSIONER: If there was a difference of opinion between the two representatives, who would settle? What is the German system where there is equal representation?

MR. DAWSON: They have not had equal representation until now, but I think with equal representation there is this provision put in, that the Government supervising authorities appoint a referee who acts as chairman of the Board.

MR. MILLER: There would have to be something of that sort.

MR. DAWSON: Notwithstanding, they have made a good deal out of getting equal representation, the experience I know in Germany has been generally that the decisions of the Board have been pretty nearly unanimous. The exception is rare. I think there would not have been a change at all, your Lordship, if it had not been that the German workmen are pretty nearly to a man Socialists, and the Socialist parties have been utilizing the two-thirds control of these insurance societies.

THE COMMISSIONER: They would probably do what the humane employer does voluntarily.

MR. DAWSON: Yes. That is, where he is able to do it.

MR. MILLER: I would like to ask a question with regard to the disturbance that would be created among the fraternal societies if this insurance was brought in to cover that waiting period. We have a great many fraternal societies here to which members contribute for the sake of getting benefits in the case of sickness. Do you know anything about the disturbance to those societies on a scheme of this sort being inaugurated?

MR. DAWSON: I am very glad, indeed, that the question is asked, if you have a large number of societies furnishing sick benefits. In the States our fraternal societies are mostly only furnishing death benefits, though there are some of the others. There may be many more here in proportion. The way in which that was done in Germany was this. There were already quite a good many sickness insurance societies of the voluntary type, and the Government set up the following rules for its supervising department. First, there must be a communal society. That society must admit everybody who is not a member of some other kind of society, and if any person is found who comes within these rules who is not insured anywhere else he must be recorded by the communal society. Second, there may be also societies connected with particular trades such as a trades-union society. Third, there may be also particular societies connected with given industries, such as, we will say, a particular iron works or steel company, or whatever it may be. I have omitted some minor classifications. Last there may be voluntary sickness insurance societies. If the employee is insured in any one of these, that is sufficient. The German Government discriminated against the voluntary insurance society in one respect, however, that if the employee presented his card to his employer and showed he was insured there the employer was not required to contribute. If he was insured in any one of the others the employer had to contribute. Now, what they have done recently I don't know. I know there was talk in Germany of requiring the employer to contribute even when the insurance was in a voluntary society, as it was felt that was unfair. The way that contribution is made under compulsion in Germany is interesting, and while, of course, it is in the book, it is not so clear that one usually understands it well.

The employee never contributes anything except to these voluntary societies, and there he makes the payment himself. If he insures in any one of the others the employer makes the payment. He does not make his own, but the employer takes it from the employee's wages. The result is that all these books of membership are in the employer's hands and it is his duty to see that the payments are kept up, and he makes the deduction. In case an employer fails to make those deductions or makes the payments to the sickness insurance society and his employee falls ill, it is the duty of the communal society, when informed by the physician who attends that man, to take charge of the case just as if he had been a regular member in full standing and dues all paid. Then they go to the employer and make an investigation and require him to pay all back dues both of himself and the employee for which he is liable, and they require him to pay the benefits they have had to pay in the case of this particular man, and in the event of its being a recalcitrant case, not merely a careless one, they make him pay that in addition.

THE COMMISSIONER: How would they work that out? Supposing a man was insured in the Foresters, or the Ancient Order of United Workmen, how would that work out?

MR. DAWSON: If he is insured in a private society like that the Government does not interest itself in the matter, unless the society fails to make a payment.

THE COMMISSIONER: What would they do in a case where there is a contribution by the employer to this sick fund? How would they treat the case? Would they pay any attention to that?

MR. DAWSON: I am afraid I do not quite gather your meaning.

THE COMMISSIONER: A man is insured against sickness and he has a sick benefit in one of these societies. I understood you to say that where he was insured in these societies you mentioned he might pay the contribution into the fund provided by the act.

MR. DAWSON: No, what I said was that the employer must contribute if the employee is insured in any kind of society but the private society.

THE COMMISSIONER: What does he contribute?

MR. DAWSON: Under the law that is existing one-third of the whole amount.

THE COMMISSIONER: Of what his contribution to that society is?

MR. DAWSON: Yes, and the employee two-thirds.

MR. DOGGETT: I would like to know under the present German Act, take for instance a seafaring man working away from the German Empire on a German merchant ship, or a railroad man going outside the German Empire, but he is working outside the German Empire, or a man working for a German building contractor outside the German Empire. Would he come within the German Act, although working outside the Empire?

MR. DAWSON: In answering your question, I will only be giving you an impression, because I am not absolutely positive as to all those three things. The first one, of a sailor or seaman working outside the German Empire, I know absolutely he is. I think the railroad man is covered, and I think the contractor is covered. I have a recollection of seeing both of these things. The first of them I know to be true.

MR. MILLER: These men that Mr. Doggett refers to are only supposed to be out of the German Empire temporarily.

MR. DAWSON: Yes, I so understand it.

MR. MILLER: They certainly should remain under the provision of that Act, on the understanding that they are only out for a temporary time.

MR. DAWSON: Not only temporarily, but also in the employment of a German employer whose headquarters are in Germany, and who has paid the rate.

THE COMMISSIONER: Supposing an American contractor was to come over here and bring his men, would he not come under such an act as you suggest here?

MR. DAWSON: He would in the absence of an international treaty.

THE COMMISSIONER: Why should he pay at both ends?

MR. DAWSON: He wouldn't. I might apply it in Europe where conditions actually exist, because there are such treaties. There has been a good deal of trouble about the matter, but I think it is now pretty thoroughly adjusted.

THE COMMISSIONER: He certainly should not get double compensation?

MR. DAWSON: No.

MR. BRUCE: What is the position taken by Mr. Dawson on the question of payment to dependants outside the Province or State where the act is in operation?

MR. DAWSON: Well, on humanitarian grounds there isn't any question that the same benefits should be paid. Considering it merely as a matter of the community dealing in one capacity with itself in another capacity there does not seem any reason why it should be paid. I should be disposed personally to say that the law should take such a form as this, that where the beneficiaries are situated in a nation giving similar rights substantially to people in Canada the compensation should not be withheld.

THE COMMISSIONER: The favoured nation clause.

MR. DAWSON: Canada would be as just to other countries as they were to her.

MR. BRUCE: Take the act as at present in operation in British Columbia, where the miners who live just inside the border of Alberta and their dependants are refused compensation. Those are just two States bordering on one another.

THE COMMISSIONER: We could not help that in any legislation of ours.

Now, the scale of living in these countries is very much lower than it is here, and why would it not be reasonable, where the dependants are living in a country where $1,000 would be as much as $2,000 here, to allow the Board to scale the compensation down?

MR. DAWSON: I think it would not be unreasonable, but the simple issue in my mind was whether we ought not to get these things in such form that we could deal with them by treaty on an equal basis.

THE COMMISSIONER: We cannot enter into any treaty. This Province, and no State in the Union, could enter into such a treaty.

MR. DAWSON: But Great Britain does enter into treaties which would embrace it. The thing that occurs to me about the matter, as your Lordship puts it, is as follows: If a man is working in Toronto and has a wife and child in Italy and is contributing to their support, he is contributing after all a percentage or portion, and perhaps a proper portion, of his Canadian wages. It may be that that enables his family to live much better there than if he remained there, but that is the measure of the damage done.

THE COMMISSIONER: He probably lives better himself also.

MR. DAWSON: I think that is so.

MR. MILLER: With reference to the question of compensation to dependants of a man whose family is living in another country, his compensation is based on the wages that he is earning here, and I do not think the compensation should be

any different because the damage to the man or his dependants is in proportion to his earning powers here, and not to what their expenses are in the other country.

Mr. Dawson: In the absence of some clear understanding with the other nation either by treaty or by some trade agreement there is one very serious reason why a difference should be made, and that is if you undertake to keep track of a widow and children off in some distant country with which there is very little communication and very few means of checking up matters you may be making a payment to people who have been dead for some time.

The Commissioner: There is another thing, too. There would not be much room for reciprocity with the Mongolians or Bulgarians or Macedonians, for there isn't a Canadian working in any of those countries.

Mr. Dawson: Of course I hadn't any idea of putting it upon reciprocity. In case a nation itself does not recognize these things we should not recognize it as to it. It is now pretty well covered by treaty in Europe. They had difficulties by reason of the great differences in the laws, but they have it pretty well covered now.

The Commissioner: Why should that make a difference, because a nation is unfair enough not to provide for its working men? Why should a discrimination be made?

Mr. Dawson: That was not what I had in mind. Suppose the other nation took an exceptional view towards beneficiaries residing in your country.

The Commissioner: There would not be one case in ten thousand in the nations I have mentioned.

Mr. Wegenast: Take between the United States and Canada.

The Commissioner: We have good laws which prevent your people coming over here and good laws which prevent our people going over there—either good or bad laws.

Mr. Doggett: I have just thought of a case we are now talking about. A certain firm came over here and a man, a carpenter, met with an accident, and I believe the case has been adjourned from time to time for over twelve months, but I understand from what I read in the papers the other day that the judge who was sitting on the case told the lawyer that he would make him the defendant if he did not get in touch with his client soon. That was a case similar to the one we are discussing.

The Commissioner: No, that is the other side. That is the employer coming here. You can't get at him.

Mr. Dawson: Under the insurance plan you would have got a premium out of him.

The Commissioner: If you caught him at the right time.

Mr. Doggett: But the action was taken before he left Toronto.

The Commissioner: You cannot get blood out of a turnip. If he is not amenable to our law we cannot get at him.

Mr. Doggett: Then there are those racing rinks that they built down there at the Exhibition Grounds.

The Commissioner: If he has means you can get at it. We are talking about paying compensation to dependants of a man who is living out of the country.

Mr. Dawson: What they propose to do under the Federal Act is in case the beneficiaries are not resident in the United States or Canada there should be paid to the resident widow, or if no widow or no resident child then to any such non-resident child or children a sum equal to one year's wages.

MR. MACMURCHY: That is instead of eight years.

THE COMMISSIONER: I do not like the look of that.

MR. DAWSON: Personally, I do not favour it myself.

MR. MACMURCHY: Under the ordinary scale it is eight years.

MR. DAWSON: Yes, but it is eight years at half wages, which is equivalent to four.

MR. WEGENAST: I have not asked Mr. Dawson to come here as my witness, and I have not treated him as such, but I think perhaps it is fair that I should be permitted to round him up on some points.

THE COMMISSIONER: He won't be rounded up.

MR. WEGENAST: You recommend then, Mr. Dawson, a State system of insurance?

MR. DAWSON: I recommend a mutual insurance under State compulsion. Whether the control should be in a Board such as has been proposed, or in mutual associations of employers as in Germany, in my judgment is a question to be solved in each individual instance according to the requirements. If it covers all Canada very likely I would recommend the latter. If it covers only Ontario, unless you find it would work out well, your Lordship, in your judgment, I fancy the single Board would be wiser.

MR. WEGENAST: At all events, Mr. Dawson, and I am putting these questions in a leading form because it is quicker, you do not recommend an extension of the individual liability of the employer along the lines of the British Act?

MR. DAWSON: I do not.

MR. WEGENAST: Not even temporarily?

MR. DAWSON: I should regard it as unwise. I think, as I stated last night, the principles in general, with some modifications that could properly be made, perhaps, of employers' liability are right on the proposition that it rests on. That is to say, if it really was between man and man the principles as already reasoned out, with some moderate modifications, are in my judgment correct, and we ought not to muddle things by changing that situation.

MR. WEGENAST: You regard then, the obligation of the employer and the rights of the employee as social in their nature rather than individual as against one another?

MR. DAWSON: I think it is a matter of the community, and the fact that there is a relationship by which that tax or assessment may be levied is quite incidental. I would like to say in that connection, and perhaps it is very familiar to your Lordship, that the original Bill brought by Mr. Asquith, who is now Premier, was to remove all the defences, and that was the thing that was strongly supported in Great Britain at the time that the Gladstone Government went down. I presume your Lordship well recollects that the Asquith Bill was defeated shortly before the Home Rule, and instead of going before the people on that they went on the Home Rule. A compensation system was introduced by the Conservative party there, and it was strongly supported by Chamberlain, but it was the adoption of the Ministry. Lord Salisbury's speeches on that Compensation Act, and the principles on which it was based, are among the very finest things I am acquainted with on the subject.

MR. WEGENAST: But Lord Salisbury's idea was to work out a system such as that of Germany by an indirect voluntary method, was it not?

MR. DAWSON: It was the idea so revealed in the speeches that if they imposed

a direct liability upon the employer for compensation precisely the same in nature as in Germany was imposed through mutual insurance, it would result in mutual insurance of two kinds. It was expected first that these establishment funds or mutual associations where the employer contributed part and the employees part would practically spread over the country, and secondly that the employers would unite in mutual associations voluntarily for the purpose of carrying the remainder of that insurance.

MR. WEGENAST: That has not been realized?

MR. DAWSON: While I understand the mutual societies have been maintained there have been very few organized.

MR. WEGENAST: Then you have already said that the individual liability system, as in England, does not tend to prevent accidents?

MR. DAWSON: That is the opinion of the Royal Commission that investigated in Great Britain, and the opinion of Englishmen with whom I have talked.

MR. WEGENAST: And it is your opinion and the opinion of the rest of the observers in the United States?

MR. DAWSON: Yes, but that opinion is based upon British information.

MR. WEGENAST: By the way, Mr. Dawson, am I safe in saying, as I propose to say in my brief, that there has been during the last year, or perhaps even the last six months, a unanimity of opinion upon this question amongst the leading thinkers in America take yourself, Mr. Emery, Mr. Preston, Mr. Cary (of the New York Central), Mr. Hoffman, and others I might mention, am I safe in saying that there is practically unanimity amongst these men upon the leading features you have presented here?

MR. DAWSON: It is undoubtedly true that the trend has been strongly in that direction. Of course there is nothing like unity, because there are a great many men who still argue the other way.

MR. WEGENAST: I am speaking of these men.

MR. DAWSON: Of the men you have mentioned that is undoubtedly true, and there are many others besides them.

MR. WEGENAST: I am speaking of these as outstanding men and writers on the subject. The objections to the State insurance idea, the collective insurance idea, comes largely from the liability insurance companies.

MR. DAWSON: There is a great deal of opposition on the part of the liability insurance companies and their agents. That opposition is open at times and at other times it shows itself through insidious influences on account of the directors and officers appearing in other capacities elsewhere, and it is all the more remarkable because those companies have always lost money in every country—there is no exception practically at the present moment—and they quite understand they are going to lose money if they go on with this. I take it it is mainly due to the agency force already engaged in employers' liability insurance, and the mere fact that the organization itself is disposed to oppose it.

THE COMMISSIONER: Perhaps you could tack on to this proposed bill something to provide for these unemployed agents.

MR. DAWSON: My impression is they would not be unemployed. The fact is the development of public liability insurance, as your Lordship is well aware through the trials that come into court, that the field is very imperfectly covered with insurance, and while employers' liability is quite widely covered, it is sometimes very unsatisfactorily covered, and it would be a great advantage if they would

devote their attention largely to protecting the public through public and general liability, and I really think these agents would be quite as well off if this particular field were not open to them.

MR. WEGENAST: Then what do you say as to excepting the larger employers, such as railways, from the general scheme?

MR. DAWSON: I should regard that as unwise. In the first place there is one thing the railroad company should think about. I understand you mean making them directly liable instead of bringing them into the insurance scheme?

MR. WEGENAST: Yes.

MR. DAWSON: If the railroad company comes into the insurance scheme it will only have to meet its assessment for the current cost like anybody else, starting very low. In Germany it started in at 38 cents per $100 of pay-roll, if I remember rightly. Now, the normal experience is about $1.80 per $100 of pay-roll, according to Germany. They are starting, therefore, at the easy end. It was eleven years before they reached $1.80. It would have gone very much higher, because we do not expect it to reach its maximum short of twenty-five years, but at the end of twenty-five years they are running along practically at $1.80 still, showing they have made very great gains in prevention. Had they started the other way, they would have had to set up in their balance-sheets the present value of all claims that would be payable in the future, all amounts that would be payable in the future on account of claims that arose that year, and there would be an accumulation of them until they had a reserve charged against them of anywhere from five to ten per cent. of a year's pay-roll. Now, there cannot be any advantage to a railroad in having that situation to embarass it right from the start.

MR. WEGENAST: Still, a railroad company could not be trusted to run its insurance system without putting up reserves, or without working in the reserve idea in their bookkeeping.

MR. DAWSON: Well, let us see whether they could. In the first place they would make a dishonest balance-sheet, it would not tell the truth about their liabilities. Liabilities that are certainly payable in the future are just as much liabilities as if they were due to-day, and they must be reported if they are to tell the truth in the statement. In the next place, there would be still a liability which in all probability you make a first lien on their properties, because wherever an individual liability is created you well know the payment of that particular thing is made a first lien on the property. There is another difficulty. We brought that out before the Commission, and it was an embarrassment to the proposed Bill at Washington. The railroad companies said if this is to be a first lien on our property, how can we sell a locomotive? Well, sure enough, how can you? How could we sell a branch line? Well, sure enough, how can you? Well, they proposed then that it be made a first lien only in the case of insolvency, but in that case the railroad company could sell all its property.

MR. WEGENAST: So there is really no way of working the first lien idea?

MR. DAWSON: If you don't leave it a first lien you have postponed it to all the other claims, because wages are first liens, and mortgages and bonds, and all that sort of thing, and there you are again.

MR. WEGENAST: I am not representing the railroad, but it occurs to me, what about the argument in collecting all the railroads into one system that you penalize

the better class of railroads who have superior preventive devices and make them bear the burden of the less progressive railroads.

MR. DAWSON: I have heard that very argument was addressed privately to Mr. Brown, President of the New York Central Railroad, and influenced him——.

MR. WEGENAST: Who is Mr. Brown?

MR. DAWSON: He is a member of the Federal Commission and President of the New York Central Railroad, and it influenced him as a member of the Commission and other railroad officers to oppose the idea of insurance, although Mr. Cary, the Chief Attorney, had personally favoured it, and favoured it as the only constitutional method at that.

THE COMMISSIONER: But this Province has already declared its policy in that respect. It has refused to allow the railroads in regard to the liability to employees to stand on any other footing than any other employer.

MR. DAWSON: That is good. But in this matter of there being discrimination: As a matter of fact, under any good system I assume, your Lordship, you would have power to penalize a railroad company that did not adopt proper devices for the proper protection of its employees, and also to give a lower rate to those which did it. In other words, it would not be true that the road that was well managed in this respect would be paying more than its fair share of these claims.

THE COMMISSIONER: It would only differ in degree from the case that we were discussing before, of one manufacturer having a better system than another.

MR. DAWSON: The same sort of thing precisely, and would be dealt with the same way.

MR. WEGENAST: Will you explain a little further, because I have seen your explanation in the brief before the Federal Commission, how the current cost plan of insurance tends to induce preventive care and activity?

MR. DAWSON: The current cost plan starts out the first year by paying only the money that needs to be paid that year. That is, for instance, for men who had been injured during the year. You only pay such weeks' payments after the accident occurs as fall due during that year. If all accidents were of a permanent character it would only average six months, for instance. That is the whole period of it, because all accidents on the average would happen in the middle of the year, and the whole duration would only be six months. The first payment would be low because it only represents the accidents of one year, and that portion of it which actually falls due in that year. The next year there will fall upon the fund payments because of the accidents of the previous year as well as the year you are in. The next year will be on account of accidents of both the previous years as well as the year you are in, and so on. Consequently you have naturally an increasing rate which is estimated to increase pretty rapidly for perhaps about ten years, and then rather slowly and with increasing slowness for at least fifteen years longer, and if there is no improvement in conditions relating to trade and industry it will still very slowly increase for twenty-five years beyond that, because some of the people that were injured the first year may have been totally and permanently injured and may remain so for a maximum period of fifty years, we will say. The way that induces prevention is this: in spite of the natural tendency of this thing to increase in this way, that increase may be off-set by causing the number of accidents to be fewer and fewer relatively, thereby having something at work which tends to reduce the cost precisely as the other tends to increase it. A good instance of that is the railroad, and perhaps I can turn that up for you.

MR. WEGENAST: I think there is the beer bottling industry, too?

MR. DAWSON: The railroads started in at 38 cents.

MR. WEGENAST: 39-100 of one per cent. on the pay roll. The next year 79-100 of one per cent.

MR. DAWSON: That is in my statement there. 39-100 the first year; next year, 79-100; third year, $1.25; fourth year, $1.38; and by the end of the eighth year it was $1.80. Then prevention began to effect it gradually, and it declined for a few years, notwithstanding the burden caused by accidents in the previous years, to as low a figure as $1.26.

MR. MACMURCHY: What year was that?

MR. DAWSON: I haven't the exact year, but I think it was about the 15th or 16th. After twenty-four years it has been standing about $1.80 for a number of years and showing no signs of rising.

MR. WEGENAST: So that the rapid rise in the rates for the first few years calls the attention of the employer to the necessity of prevention.

MR. DAWSON: Exactly. There is a standing impetus there under that system to cause him to do everything in the world he can to reduce it, and it has so operated always.

MR. WEGENAST: You have given several examples of rates which reached their maximum within ten or fifteen years, instead of running as they would under the actuarial tables to a maximum in twenty-five, thirty, or forty years.

MR. DAWSON: Yes, there are several other instances besides the railways where that has been true.

MR. WEGENAST: You also made the statement, I think, that the initial rate would be in the neighbourhood of twenty per cent. of what the normal rate should be?

MR. DAWSON: That is not far from the fair average. In some industries where a larger proportion of the accidents result in serious disability it might even be a little less than that, and in some industries where a larger proportion of the accidents result in death it might be somewhat more.

MR. WEGENAST: Then the current cost plan has this advantage, that it is not so great an immediate strain upon the employers?

MR. DAWSON: That is one of its most marked advantages and believed to be one of the reasons why it has operated so well in Germany.

MR. WEGENAST: Then you are an actuary of experience and standing throughout the continent of course?

MR. DAWSON: Thou sayest it, not I.

THE COMMISSIONER: We take that for granted.

MR. WEGENAST: You are quoted in these briefs and are now making a statement that you deem this plan consonant with correct actuarial practice?

MR. DAWSON: Under a compulsory system it is not only in my judgment as sound as the capitalized value plan, but sounder, and a more reliable and wiser plan.

MR. WEGENAST: So that from the actuarial standpoint alone it is superior to the capitalized plan?

MR. DAWSON: Under compulsion it is in my opinion.

MR. WEGENAST: Then what about the objections to it as being an assessment form of insurance, and the parallel that may be drawn between it and assessment life insurance?

MR. DAWSON: I stated it last evening, that assessment life insurance would be perfectly safe under compulsion, and would also be almost level in cost, the variations merely being those variations that take place in the death rate in the community or province or country from year to year owing to better sanitary or better health conditions.

MR. WEGENAST: What would you say as to this feature, Mr. Dawson? Would you regard it as advisable to begin a system which would include certain classes of employers, we will say, or employers employing a certain number of employees——?

THE COMMISSIONER: He told us that last night.

MR. WEGENAST: I am getting at something a little different, your Lordship. Would you regard it as advisable to establish a system along the lines which you recommend covering only a part of the employers rather than to introduce an individual liability system covering all employers?

MR. DAWSON: I regard an individual liability system covering all employers as a mistake in every sense, and as necessarily perpetrating a number of very serious injustices. I might give you an instance such as this: suppose a law passed rendering all employers liable for injuries, say even to household servants and other household employees. It is quite conceivable that some working man who had never had an employee before on account of the sudden illness of his wife would call one in, utterly ignorant that he was incurring any liability at all, and an accident occurred, and this man has his little home swept away by the liability thrust upon him. Now, that is not at all what society intends, and I cannot look on it with any real favour at all.

MR. WEGENAST: If a partial system, or a partially satisfactory system is to be introduced as preliminary to a larger system, or a system giving better satisfaction, you would rather have a system on this plan which you advocate applying to only a limited number of employers, than to have the larger system at once on the individual liability basis?

MR. DAWSON: Personally, I should say yes.

MR. WEGENAST: What would you say as to a law covering four or five employees and over as a beginning?

MR. DAWSON: It might not be objectionable as a beginning. I, personally, do not see any necessity for making that distinction. If a man is an employing contractor, for instance, he may employ only one or two men, but I see no reason why he should not be covered by an insurance law.

MR. WEGENAST: I was not thinking of the logic of it so much as the practical difficulty of setting the scheme in operation. Would you have any objection from a practical standpoint of beginning a system with five persons and over, and when the insurance department gets fairly under way adding the rest as it was found desirable, and as public opinion called for it?

MR. DAWSON: I am not convinced of the necessity for it.

THE COMMISSIONER: I have some figures here which perhaps might help. It is estimated that in this Province there are eight hundred factories employing over five hands, and the aggregate of the number of the employees is 90,000. There are only 400 of the smaller industries employing less than five, and the total number of employees is 2,000. You see, if these figures are at all accurate, they show it is only a small percentage that would not come under it.

MR. DAWSON: That makes it more nearly a practical thing to omit them, and at the same time it renders it not very difficult to include them.

THE COMMISSIONER: Would you not have a very serious condition if a man is working in one place with five hands and he is provided for, and a man next door with four, and he gets nothing? It would make the law unpopular at once.

MR. DAWSON: Your Lordship has put the matter very much better than I could. It is an arbitrary distinction which will not be satisfactory in the end.

THE COMMISSIONER: The only thing would be whether it was expedient on account of the smallness of it, but that leaves the employee in trouble.

MR. WEGENAST: If there is to be any restriction in the act at present you would prefer to make the difference between occupations rather than on the basis of the number of employees?

MR. DAWSON: Yes. I should think that would be perhaps very desirable.

MR. WEGENAST: Excluding in the meantime such occupations as domestic servants and agricultural employees?

MR. DAWSON: Possibly both of those depending upon the sentiment of the community, whether it is ready for it or not.

THE COMMISSIONER: There is one class you have got to exclude if you want to get a law, and that is the farmer.

MR. DAWSON: They did exclude them in many countries when the laws first went in, and in some countries they are still excluded. One of the most peculiar things about the farmers is what has taken place in Bavaria. The kingdom of Bavaria, in Germany, has extended the insurance law further than the regular insurance law of the empire, by embracing the employing farmer, as well as the employee, and requiring payment accordingly, and that made it in a very short time popular with the farmer. The employing farmer found the insurance for himself exceedingly convenient to have, and they considered the thing had worked particulary well, and I think it has been copied in some of the other kingdoms. I have not examined the new draft of the German law, but I should not be surprised if it were not extended over the empire.

THE COMMISSIONER: How did they arrange the contribution?

MR. DAWSON: It is only an impression, but my impression is that it was fixed at so much per head, and where employees were employed but a portion of the year it was pro-rated for the actual length of time they were employed.

MR. WEGENAST: Then you maintain your general view as to the collective system or State system, whichever you choose to call it, notwithstanding Dr. Friedensburg?

MR. DAWSON: Dr. Friedensburg is the one man in Germany who has such prejudices. I don't know of any other. He was a reactionary who was appointed on the insurance Board because he was a reactionary. He was very much opposed to anything being done about this thing, and has always been opposed to anything being done about it. I am informed by Dr. Zacher that he retired from the Board on account of what is rather euphemistically called extreme nervousness, and on account of his attack he jumbles all sorts of criticisms of mere methods of doing this little thing or that little thing with a constant tirade against the whole idea of Workmen's Compensation, and he ascribed the failure of Germany to assume her proper place in the world's market to that, which is something of a joke to all the rest of the world, and then he ended by stating that he would be in favour of it being a pure State insurance.

Mr. Wegenast: I was going to say that his argument ends up with a complete endorsation of both the voluntary associations of employers idea and the State insurance.

Mr. Dawson: Yes.

Mr. Wegenast: I do not know that there is anything else of particular value that I wish to take up with Mr. Dawson.

The Commissioner: Would your plan involve capitalizing the payments under proper restrictions in certain cases, and paying the capital sum? Take the case of where death followed and where it was desirable to give the payment so as to give them a start in life?

Mr. Dawson: I think I would not favour that, your Lordship, for this reason, that I very much doubt that any of these are ever in a good position to decide that it is desirable, and if it is allowed there will be constant pressure brought, and constant application for it. You see the amount that will be supplied is small. It is not a liberal living, and people who are in receipt of those little incomes are certain to have pressure for a little more money, and they are very enthusiastic about the future, but the present is the present, and consequently your Commission will have constant pressure brought to bear upon them to give way on that point, and it has not been deemed wise to do it, but wherever it has been attempted it has been a matter of great annoyance.

The Commissioner: My experience for a long time as lawyer and judge has been that very often a father does a great deal of harm to his family by tying up his property in such a way that it cannot be used to the best advantage for his children, or for those who are his beneficiaries. Very often cases have occurred where the property has had to be kept, and these people have been practically in a position of penury when the capital sum, if it might be drawn on, might have eased them to some extent at all events.

Mr. Dawson: I have seen a great many cases myself,

The Commissioner: Does the same principle not apply here?

Mr. Dawson: It seems to me not quite, because if the father had lived, for instance, all that he was to that family from a financial standpoint was one able to furnish an income to support them, and we are undertaking to replace him from a financial standpoint, not completely, but as completely as we deem wise, under such an act in the same position which he occupied. Now, there is another question arises in that connection. There would be pressure wherever they thought that the person who was receiving this income might die soon. That is one of the things that would cause them to come and ask for it. There are circumstances under which I think it might be done, but those circumstances should be, if possible, clearly laid down in the law, or should be such as to cause the Board to act on its own motion and not on appeal from anybody. For instance, it has been deemed wise to make everybody some payment for certain kinds of injuries, such as maiming, and the situation clearly arises that the person is capable of making a living, even in his maimed condition, and perhaps it might be all right to remunerate for that in a lump sum and be done with it, but with that sole exception I am of the opinion that extremely few things would warrant it.

The Commissioner: I was thinking more of total dependence? A man is injured and has to leave the vocation that he has been brought up to, and he sees an opportunity if he has a little capital that he is quite able to undertake and he

could earn as good a livelihood as he did before. Would it not be a hard thing to have that money there and not be able to use it?

MR. DAWSON: It is, but we have to deal with the principle, not the speculative case. I read to you the note of a British judge that these things were loopholes. You must realize it is a peculiar situation when the judge finds all parties there of the same opinion. One of the difficulties under the British law, of course, is that it is the employer himself on one side, or the insurance company that he is insured in, and the workman on the other, entirely agreeing that this is what we want to do. Of course under this plan that would not quite be the case, because there would not be any employer on the one side, but it would be a constant source of resistance on the part of this Board of Appeals from the very persons who are receiving the benefits.

THE COMMISSIONER: Well, every day the court is doing this thing with the fund belonging to the infant.

MR. DAWSON: Yes.

THE COMMISSIONER: Advancing part of the money for the benefit of the infant.

MR. DAWSON: But this income should be sufficient in a very modest and moderate way actually to support.

THE COMMISSIONER: We have such applications as this. Perhaps if you limit the age to sixteen when the payment would stop it would not be so important. A young woman wants to be a school teacher or wants to be a music teacher, or a young man wants to be a doctor. It would be very important to them that they should have something to enable them to get into that profession or calling.

MR. DAWSON: Yes, but as you are limited they really would not come within the range. If you stop at 16 or 18 it would not be within the range. There is one thing I think warrants a lump sum, and that is a very good thing indeed, and in all countries that have used it I think they are satisfied with it, and that is to offer the reward of the lump sum of two or three years' compensation to a widow upon re-marriage.

THE COMMISSIONER: Encourage her to do that?

MR. DAWSON: Yes. It has worked well, and it has worked with a great deal of satisfaction. Yet, notwithstanding that feature in the German law, where it is three years, the average widowhood is, to the best of my recollection, a little over fourteen years. Then they have either remarried on the average, or they die, so that the average is fourteen years.

THE COMMISSIONER: Well, if that system were adopted and the lump sums paid, I suppose this annual assessment would have to cover the capital sums that were so paid.

MR. DAWSON: Yes, it would.

MR. WEGENAST: There is one other feature with regard to the current cost system that I would like to raise. How do you justify throwing the burden of present accidents on the future?

MR. DAWSON: I made some reference to that last evening. In the first place, I think it is justified by the fact that the community is now carrying and will continue to carry for nearly a generation to come the burden of caring for those who have been injured, and the families of those who have been killed, and it seems unfair, therefore, to superimpose this burden of an advance payment on top of that which would gradually be running on. That is just as real as if we

were able to measure it; it is actually going on. Another reason is that when the premium reaches its highest point it is, outside of merely the consideration of the discounts on the payments to be made in the future, no higher than the premium of a capitalized value plan would start at, and if you figure the payments would continue for a period of about six or seven years the discount is a very small amount, and therefore it can be dropped out of consideration. That is to say you do not get any lower premium on the capitalized value plan because of having put it into effect, outside of the interest that the accumulated fund may earn, than you do on this assessment plan or current cost plan when it has reached its maximum.

Mr. Wegenast: It reduces its maximum as it runs along.

Mr. Dawson: As it would have been from the start the other way. You see the thing that you have done is to enable the thing to be passed, like all taxation is to a large extent, on to the future generation, that generation being enabled by the same compulsion to pass a part of this on to the next generation, a system which is absolutely unsound except under compulsion.

Mr. Wegenast: Mr. P. W. Ellis is here, and I had thought he might have addressed the Commission to-night.

Mr. P. W. Ellis: His Lordship read some figures as to there being some 800 industries employing some 90,000, and 400 employing 2,000. In those industries there is a large number of workmen who will be setting up in business for themselves, and the number of industries employing from two to four men is going to be enormously increased. In some places there are what are called out-workers, and in many instances their factory is their home, and what I wanted to know, Mr. Dawson, was if you felt it wise to exempt these people? I have noticed conditions in Birmingham where large factories are idle to-day, and those who were formerly producers and employing a large number of hands are purchasing their wares from these outworkers, who can produce them cheaper than they can produce them in their own factories. These workers will work long hours in their own homes when they will not for an employer, and they make their own conditions much more onerous, and the consequence is the employer who has to have restricted hours and all kinds of appliances, is being pushed out of business by these outworkers, and if they were to be exempted from any workmen's compensation and the burden placed upon industry that would still further enhance the inability of the employer who is carrying on th regular factory system to compete with the out-workers.

Mr. Dawson: I already stated last evening that I am not in favour of exempting them. His Lordship has given a very cogent reason that has not occurred to me, and that is the same employer would have five for instance one day, and the next day he might have four, and his employees could not understand any such situation as that, of course. If I happened to be injured yesterday I would be compensated, but because I am injured to-day I am not, right in the same employment.

Mr. Ellis: Take this out-worker. He has three members of his own family working for him. I suppose they would be employees?

Mr. Dawson: Well, that depends on whether they are working for wages. If they are members of the family and simply clothed and fed by their father it is simply a family affair, not coming within the range of wage-workers.

Mr. Ellis: I was quite impressed in France with the number of small em-

ployers. Of course industries which require large plants like the iron industry we do not find small industries, for the investment is too great, but there are a great many industries that require very little capital.

MR. DAWSON: We have what they call sweat shops in the United States, but they have been growing into larger places. I think it would average ten at least.

MR. WEGENAST: Mr. Ellis has been desirous of appearing before the Commissioner, and has found it difficult, owing to the pressure of other engagements, and it might be as well to hear from Mr. Ellis now,

MR. KINGSTON: Just one suggestion. Take the casual contractor, the man for example who comes from another country to execute a large contract involving half a million, such as the erection of a very large building. He comes in, and he goes away leaving us a legacy of a number of accidents which will take years to work out. How would you justify the current cost plan in such a case as that?

MR. DAWSON: Well, I think that is closer to a poser than anything that has been asked. and I would like to give it further consideration.

THE COMMISSIONER: How would you get that man on the tax roll?

MR. DAWSON: There would be no difficulty I think about that, your Lordship, because he would be subject to precisely the same liability as everybody else in this community.

THE COMMISSIONER: But in the laws in the States they have adopted this plan so far, they have a day in the year upon which they collect taxes, October or November.

MR. DAWSON: That does not necessarily follow as to contractors. It is easy enough to require an investigation of how much labour is involved on that contract, and accurately base his premium on that and collect it.

THE COMMISSIONER: No doubt if you find him you could collect your rate?

MR. DAWSON: Contractors are generally open enough and prominent enough. You could make a registration law.

THE COMMISSIONER: Isn't the answer this, that it does not fall on the back of the employer, it falls upon the body of the community?

MR. DAWSON: That is unquestionably the case, and that is perhaps the correct answer. I had never considered the particular type of thing which was there described to me, although I know it must be happening in every country. My impression is that in Germany they have always treated it just like every other case.

MR. KINGSTON: Could you not make a system somewhat elastic so that in a case of that sort the Board might have discretion to charge a rate which would represent a capitalized value?

MR. DAWSON: Of course it could be specified in the act if an alien contractor had come into the Province, and I am afraid it would mean a foreign contractor from some other Province, that the premium collected from him should be on a capitalized basis and should correspond to the labour involved in his contract. That could be done. I think it would work out all right on the whole anyway. I don't think it would make any great difference.

MR. KINGSTON: You could make it so that such a contractor could not get another contract in the country unless he paid the premium?

MR. DAWSON: Under the new contract he would be paying the rate. and if the rates were increased he would be paying the increased rate.

THE COMMISSIONER: Is this not so big a scheme that these things do not count much?

MR. DAWSON: I think they cannot have counted much or the issue would have been raised to me in some way, either in writing or in conversation.

THE COMMISSIONER: If Mr. Wegenast is right about the four to six millions what would this little thing amount to in that amount?

MR. KINGSTON: The instance I raised was possibly where it would mean half a million dollars in the contract.

MR. MILLER: You see we have the Fuller Company erecting the C.P.R. offices, and that is a very big contract.

MR. DOGGETT: He would be in a similar position to the employer who went out of business?

MR. DAWSON: Yes, the only difference would be that the employer who went out of business would be succeeded by some employer, probably, in the Province who would go on with some of the business, either that business or a similar one, and in addition the employer would not go into business with the intention of going out, while this contract is only entered into for a limited number of months, and then is over. I am not sure that it would be improper to put into the bill some provision dealing with special cases of that sort.

MR. DOGGETT: There is generally a sub-contractor working, or different sub-contractors. The sub-contractors might invariably be local men, and you could get them.

MR. KINGSTON: The difficulty only arises the first years. As the years increase the amount is getting nearer to the capitalized rate.

MR. BANCROFT: The point has been raised, and the question was asked Mr. Boyd as to whether he had, and I would like to ask you whether you had found in your investigations at any time where a workman was proved to have injured himself for the purpose of getting compensation?

MR. DAWSON: There have been such cases, but they are not numerous. It was expected there would be a tremendous amount of simulation, but there has not been so much.

MR. ELLIS: Take a case like this, in localities where short work is prevalent and continued year after year, and where men are suffering from starvation almost. You can realize the uninjured man without the wherewithal might be a charge on charity, and you would have his neighbour who had been injured enjoying a pension.

MR. DAWSON: Yes. You remind me of one thing that is evident in the German system. They used to attribute the enlarged claims against the sickness insurance societies particularly to simulation and malingering. That is a large claim arising where there was considerable unemployment, and of course some part of it is undoubtedly attributable to that, but they tell me that as a result of very careful investigation which has been conducted by both employers and employees, the following is the true explanation of the larger part of it, that while full work is going on the poor fellow that really ought to have laid off keeps going because he can get full wages, and the fact is that in most cases they ought to have been been laid up longer than they were.

THE COMMISSIONER: That is hardly the case Mr. Ellis is putting. He is putting the case of a time when there is not much work, and one man who has been on the fund gets compensation, and the able-bodied man who is able to work has to go starving. It seeems to me the answer to that is that if this principle is sound the corollary of it is insurance against unemployment.

MR. DAWSON: In the end I think that is true, but it will take quite a time to reach it. I would like to see the British experiment carried further

before I would like to see anybody copy it. I may say, your Lordship, before the British system was even thought of, I had stated to the highest authority on employment insurance, a gentleman in Belgium, that in my judgment the way to do it was compulsory and national, that the trouble with all local systems was they were very much more liable to local depressions that would ruin the thing than a depression through a whole nation.

MR. BANCROFT: The man would not get compensation unless he was injured either permanently or temporarily.

MR. DAWSON: But I understood Mr. Ellis to say whether there might not be an increased amount of simulation and malingering due to decreased employment. and I have answered there always has been under all these systems an increased number of applications for benefits on funds when there was a considerable amount of unemployment. There is no question about that. At first it was supposed that nearly all of that was simulated or pretended accidents or pretended sickness, but the conclusion now is that while some part of it is that, a very considerable part of it is due to the employee having kept at work desperately in order to get his wages when he ought really already to have been on the sick list. That does not apply so much to accidents because unless the employee has purposely caused himself to be injured to get on the list there is no such thing as getting on the list.

MR. ELLIS: Mr. Bancroft raised the point that it was hardly conceivable that any man would wish to injure himself for the sake of the pension that would arise from it. A case occurred in Toronto, I believe, where a person allowed a street railway car to run over him in order that he might collect his accident insurance. He was in distress. The accident insurance company set up the defence that it was apparently an accident, but that as a matter of fact it was intentional on his part.

THE COMMISSIONER: Would that not be one case in a hundred thousand?

MR. BANCROFT: Mr. Boyd I think said one per cent.

MR. DAWSON: The simulation and malingering together would be more than one per cent.. simulation meaning either actually causing yourself to be injured, or else setting up a pretence to be injured, and malingering meaning hanging on after you were really ready to go to work. Those undoubtedly involve more than one per cent., but actual maiming or serious injuries to a workman for the purpose of obtaining the benefit is very rare. That is very much less than one per cent., but it does happen once in a while. You take outside of unemployment and conditions such as you speak of and it is a moral condition. There are some shirks in the world, and we must acknowledge that fact. They are no good at work, and probably the employer would be better off to put him on a pension and turn him out, and such people sometimes have been known to maim themselves in order to get on these lists. and when those facts are discovered they do not get on, that is all.

MR. BRUCE: In your investigations, Mr. Dawson, a minute ago you made a statement there was an increase in the claims. Is that not really due to the application of the Act to a man, instead of his having to go to litigation to claim for his injuries? Take a man losing two or three fingers in some machine, he could draw his benefits. and go back to work and receive his remuneration from his work. rather than take the smaller remuneration that he would get under the act?

MR. DAWSON: Under the German rule he would be paid full benefits during

the time he was unable to work, and when he did go back to work he would still be paid some benefit for his impaired condition.

THE COMMISSIONER: Even though he were earning full wages?

MR. DAWSON: If he were able to earn absolutely full wages the benefit would stop. In Austria he would get some benefit, because they determine the compensation on the fact of the injury.

MR. WEGENAST: Do you approve of that?

MR. DAWSON: The associations of Germany so far have been unwilling to adopt it. In Austria they are loud in its praises. They say they had all sorts of difficulty in determining the amount of impairment of earning power and holding it over. For myself I hesitate to say.

MR. WEGENAST: Take the case of a young man who is injured, who perhaps loses his arm, and is forced thereby into some profession, would the systems in Germany and Austria, for instance, pay him his pension?

MR. DAWSON: Under the system in Germany as soon as by the assistance of the employers' associations he had been put in a position so he could reliably and continuously earn as much money, or more money, than before, he would go off the list entirely. In Austria on the contrary the amount of his benefit would be a certain percentage of his wages, which in the case you speak of, the loss of an arm, whenever it was found he was capable of supporting himself continuously, even on a much lower scale, would be cut off entirely, but given a capitalized value for it, a commuted value. That is the difference between the two systems.

THE COMMISSIONER: What do you think of the British system that provides for periodical revision of the rates?

MR. DAWSON: All good systems do that. I certainly should favour it.

MR. BANCROFT: We find probably the most important conference that has ever happened in Great Britain is happening to-day in the Labour Party.

THE COMMISSIONER: That is a pretty strong assertion, Mr. Bancroft.

MR. BANCROFT: What I should have said is as far as the workers are concerned. There has been a resolution submitted by probably the most important Trades Council, which says something like this, if I remember the words correctly, that owing to the injustice under the individual insurance of employers and liability companies we press the parliamentary Labour Party to seek for legislation to make compulsory insurance by employers in this State.

Now, if that was done would the British Act then meet with your views on workmen's compensation?

MR. DAWSON: The British Act on the whole is a pretty liberal act if it were carried on a State system. I personally feel that one of the serious defects of the act has been clothing the local judges with power to approve settlements or lump sums, and that is the opinion of those judges themselves. In some other respects it might require revision, but it would be a pretty good act if it were operated through a compulsory system.

THE COMMISSIONER: I thought you started with "if."

MR. DAWSON: I say if it were operated on a State insurance system.

THE COMMISSIONER: That is what he means. I understand it means the employer being required to insure against his liability to the State.

MR. DAWSON: That is what he said, but I think the other is what he meant.

THE COMMISSIONER: Practically it is the same scheme as has been outlined.

MR. BANCROFT: Exactly. What I wanted to get at is, if that was put into the legislation does Mr. Dawson think that that would be the means of

inducing the employers over there to form the same mutual trade associations as they have in Germany?

MR. DAWSON: Well, I should say if they introduced any system at all of State insurance in Great Britain, a country with a very large population, and of highly developed industries, they in all probability would follow the German system with such changes as were found to be desirable under British conditions.

MR. BANCROFT: Then the argument against the British Act that it does not make for the prevention of accidents by invention as it does in Germany would be removed?

MR. DAWSON: Undoubtedly, if they had those associations.

MR. WEGENAST: Is it your idea to compel the employer to insure in a private company?

MR. DAWSON: No, to insure in an organization set up by the State, not necessarily with a State Board, because it may be these mutual associations which the Government requires to be formed as in Germany.

THE COMMISSIONER: But not individual collective insurance?

MR. DAWSON: Not individual collective.

MR. DOGGETT: Take the case of two employers. One uses dangerous appliances in his factory, and another manufacturer manufacturing the same commodity does not use those dangerous appliances. Do you think those two manufacturers should both pay the same rate for State insurance?

MR. DAWSON: No, indeed. There should be given power to the Commission which would have charge to make, within reasonable limits, lower rates for those who equip their factories with the best appliances, and higher rates for those who have dangerous conditions.

MR. BANCROFT: I think this is one of your works along with Mr. Frankel. Would you mind explaining those two features, the State Executive Boards for State employees.

MR. DAWSON: Well, that is very plain. The State itself insures its own employees, you see, and sets up a State Board.

MR. BANCROFT: They have representatives if they contribute?

MR. DAWSON: I am not positive, but I think not.

MR. KINGSTON: You would include State employees in such a system as you speak of?

MR. DAWSON: I think so. I think it would be only fair.

THE COMMISSIONER: Would the argument with which you have supported your thesis apply at all or with the same force to municipalities or Governments employing labour?

MR. DAWSON: Yes, except of course if you desire to do it you could omit them from the insurance plan. I do not know but it would be quite as well to omit them and allow the municipality and the State to make its adjustments directly. If you took that course perhaps it would be well to clothe this Commission with power to make adjustments because it would have the best machinery for it, and then simply let the money paid out be raised by taxation in such manner as may be deemed proper.

MR. WEGENAST: That would not work where they compete with private concerns.

MR. DAWSON: It would not make any difference. They would pay just as much one way as the other. The only reason I speak of it is they would have a sufficiently large number of employees to get averages. It would work out all right.

MR. KINGSTON: If they know how much they have to pay they know how much to levy.

MR. DAWSON: It might be better to include them in an insurance scheme, but I can understand that private employers might complain very bitterly if the State contributed more claims than it did money for even a single year.

THE COMMISSIONER: How long would it take for an actuary, the data being given to him, to give a financial basis for this, a rate to start with, and classify the industries?

MR. DAWSON: Oh, I should think it could be done in ninety days clear. It would be, of course, as suggested already to your Lordship, merely a rough thing, and the correctness of it would be judged by its efficiency, not by its being accurate. It might even be done in a shorter period if all the material were at hand It is mainly a matter which would call for careful consideration and discrimination. It might be hit off in a few days correctly, but I should feel I should like to sleep over it, and take it up again, and work over it, and make sure.

THE COMMISSIONER: The classification would take some time?

MR. DAWSON: Yes, but as already has been suggested it would not take so long as would be the case if there were not elaborate classifications already in existence that could be used as a basis, though I would not like to accept them absolutely.

MR. WEGENAST: There is this obvious remark which I would like to have you confirm, Mr. Dawson, that the systems we have in some of our Provinces now based on the British Act are not likely to be permanent, judging from experience in other countries.

MR. DAWSON: I think that is true. For instance, at the International Conference in Rome a few years ago, representatives from countries that had strongly opposed the idea of compulsory insurance, distinguished men who had attended that Congress session after session, arose one after another and acknowledged they were entirely persuaded that was the way to deal with this question, and as you know the tendency in Great Britain in the last two years has gone tremendously in that direction, even so far as to awaken some apprehensions as to whether it has not gone too rapidly.

MR. BANCROFT: Which direction do you think it will take?

MR. DAWSON: Towards State insurance or national insurance.

MR. BANCROFT: That is the tendency all over the world.

MR. DAWSON: I thinks so.

THE COMMISSIONER: Do I understand, Mr. Dawson, that you had to do with the drafting of this act?

MR. DAWSON: No. I had been requested to draft the bill with those mutual associations.

THE COMMISSIONER: I see they favour the French system of dissecting the human body into its parts.

MR. DAWSON: It is based rather on the Austrian system. It is imperfectly done.

THE COMMISSIONER: Quebec has done the same thing here.

MR. KINGSTON: Would you favour clothing such a Commission as suggested with a sort of quasi-judicial discretion dealing with such cases as malingering and simulation?

MR. DAWSON: Oh yes, I should clothe them with power to revise at the end of fixed intervals, and more frequently if some special occasion arose for it.

THE COMMISSIONER: Surely that would arise in determining whether there was a claimant on it.

MR. DAWSON: It would be very uncomfortable if the Commission had granted a certain amount as a disability benefit deeming that the man was permanently disabled and then they heard that this same fellow had gone to work and was earning as large wages as before. It would be peculiar if they could not call that case up and stop it.

MR. GIBBONS: Supposing they had granted a certain compensation and found out the accident was more serious than they at first considered?

MR. DAWSON: They would revise in that case also.

THE COMMISSIONER: That is provided for in the British Act.

MR. WEGENAST: Does it work out in the British Act?

MR. DAWSON: Not so much because there is such a strong tendency over there to get the lump sum settlement confirmed. You see the Employers' Liability Insurance Company is interested in getting off as cheaply as possible. This is anything but strange, especially when they are losing money already on the business.

MR. KINGSTON: It is not so much that as to get the obligation off the books.

MR. DAWSON: Partly that, too. They start right out on the basis that they want to get settlement, and just as a fire insurance adjuster generally does, they generally use the argument, namely, we don't think your injuries as great as you think they are, and they also raise questions as to whether it comes under the act, and whether you haven't done something that will exclude you from it, and they use that as a means of getting a compromise. Then on the other side you have the great anxiety of the average person to get a bunch of money, and the two things bring them up before the judge with a proposition, and they say, we are all agreed on it: everybody has gone into this and we are quite satisfied that this is the right amount. Then usually a man, as your Lordship suggested, thinks he can go into some little business with it, or do something, and there you are.

THE COMMISSIONER: You gave us the figures as to the percentage of the premium, I think that goes to the place that it is intended to go, or was that Mr. Boyd?

MR. DAWSON: I think Mr. Boyd did, and I think I did also. I can send you the last report on that subject published by a leading insurance journal in Great Britain. In Great Britain the avowed expense is about 36 to 38 per cent. of the premiums. They do not, however, include the expense of adjusting claims, or litigation, and it is estimated, I am reliably informed, that that is nearly if not quite another 15 per cent. In the United States it is 51 per cent. There was an investigation made by myself of the figures for 1909.

THE COMMISSIONER: I think Mr. Boyd told us it was a minimum of 6 to a maximum of 16 per cent. of the premiums that went into the pockets of the workmen.

MR. DAWSON: I do not know on what he would base that. I will tell you my own judgment about it. The amounts that the workmen are actually receiving is hard to get at because we do not know how much has been lost between the company and the workman because of payments to the workman's attorneys, and his costs, and all those things, but the total proportion of the premiums paid the liability companies in the United States which in the year 1909 went to the workmen, or went in the payment of claims, was about 35 per cent. Of the 35 per cent. even most of the employers' liability companies acknowledged that

nearly if not quite ten per cent. is lost by the workman in the process of adjustment in one way or another, leaving about twenty-five per cent. of the total premium which probably reaches the workmen and their families. That is however, only a rough estimate; nobody knows

MR. KINGSTON: Is there anything in any of the European acts which deals with the question of an extra allowance for medical expenses or hospital expenses other than by that first aid plan that you suggested?

MR. DAWSON: In Norway they always required, after they had passed a Workmen's Compensation Act, the employer to pay hospital and medical expenses during the first thirteen weeks that there was no compensation. It was pretty severe, but they were trying to foster the building up of sick societies, but they did require the employer to pay the medical expenses directly.

MR. KINGSTON: Take a case where compensation practically begins after the accident. Is there any law which provides for medical and hospital expenses in addition to the schedule of compensation?

MR. DAWSON: I think most of the continental laws do. That is a mere recollection. I could look it up very easily.

MR. KINGSTON: That would add quite a substantial item to the compensation?

MR. DAWSON: It does, no doubt, but that is the general rule on the continent.

MR. KINGSTON: Is it not true that a lump sum settlement is not inconsistent with any current cost system?

MR. DAWSON: I should think the lump sum settlement is a thing not to be indulged in except in very rare cases, and those very distinctly set out in the Act itself, because if a large measure of discretion were given to a Board in that respect in my judgment the pressure upon them would be the greatest torment of their lives to start with, and in the next place all those lump sum settlements would mean that this theory of current cost with its gradually increasing burden would be to that extent disturbed and destroyed.

MR. WEGENAST: What about leaving that feature out of the Act in the initial stages altogether?

MR. DAWSON: I would like to compare carefully the different Acts and give some consideration as to whether there are some special cases where it should be provided before answering. I have named one. I think you ought to offer the reward of three or two or one year's benefit to a widow upon re-marriage.

THE COMMISSIONER: That is hard on the children.

MR. DAWSON: It might greatly advantage the children. and probably does in a great many cases.

MR. MILLER: There is a danger that the fund may be squandered if you give a lump sum by their going into some business.

MR. DAWSON: In reference to being a disadvantage to the children, your Lordship, you should remember the children get their benefits until they are 16 years of age. It only stops the widow's benefit.

THE COMMISSIONER: There is one thing I wanted to ask with reference to that suggestion that a period might be fixed during which the employee would be insured against all sickness and accident, whether occupational or otherwise, as to what would happen if the man was out of employment?

MR. DAWSON: In that case the employee would be required to pay it all if he

wished to maintain it, and it would be voluntary on his part. If he did not keep up his payments he would not be insured, and if he kept them up he would be.

MR. WEGENAST: It would be an inducement to go to work?

MR DAWSON: And particularly an inducement to pay his insurance.

MR. DOGGETT: Supposing a man had been paying for twenty years and then gets out of work?

MR. DAWSON: He has only paid for what time he has already been insured. and he is not entitled to more unless he pays on, and certainly he cannot expect the employer to pay it when he is not in his employment. That is an argument in favor of unemployment insurance, but not an argument against this.

MR. BANCROFT: Hasn't that argument been used as an argument in favour of insurance against unemployment?

MR. DAWSON: Yes. The only question about that is its practicability. It is generally regarded as desirable if it is practicable.

THE COMMISSIONER: It is getting very late, and, although I would like to hear Mr. Ellis now, I think we had better adjourn. I will arrange a meeting to suit Mr. Ellis' convenience, when we will be very glad to hear what he has to say.

I am sure we are very much obliged to Mr. Dawson. He has given us a great deal of information, and I think we all feel he has endeavoured to tell us what he thinks is the best, regardless of employer or employee. I shall be glad if he will furnish us as soon as possible with the information he has kindly promised to send.

MR. DAWSON: I shall do so, your Lordship. It has been a great pleasure for me to appear before you, and if I have been of any service, however small, I am exceedingly gratified.

MR. BANCROFT: If it is not out of place to say it, I would like to say that we have looked forward to Mr. Dawson's coming, and he has not disappointed us.

MR. GIBBONS: I think we ought to give the Canadian manufacturers credit for bringing Mr. Dawson here as their witness. I think they have shown an impartial spirit, and we as labour men, are very well satisfied with the information we have got.

THE COMMISSIONER: The figures I gave some little while ago I am told refer to Toronto and not to the whole Province.

MR. DAWSON: That is the 175,000?

THE COMMISSIONER: Yes, that only referred to Toronto.

MR. DAWSON: If you could give me the total number of employees for the whole Province it would be better. I judge you would like to get an idea of how much expense it would involve the Province for administration?

THE COMMISSIONER: Yes.

Alphabetical List of Witnesses.

Mr. Archer .....London, Ont..... 272

Mr. Fred. Bancroft.....Vice-Pres., Trades and Labour Cong, Canada.....168 *et passim*
Mr. James A. Bastle....President, Trades and Labour Council, London, Ont... 266-276
Mr. Botley.....Miner, Cobalt, Ont. 176-196
Mr. J. H. Boyd.....Counsellor-at-Law, Toledo, O..... 309-383
Mr. Bruce .....Amal. Asso. Plumbers, Steam and Gas Fitters..... 206-252 307-355, 447, 461
Mr. J. T. Burke.....Chief Factory Inspector, Toronto..... 366

Mr. Cohen .....Mines Manager, Cobalt, Ont..... 178,196
Mr. E. T. Corkill.....Inspector of Mines, Ont. 166

Mr. Miles M. Dawson....Counsellor-at-Law, New York, N.Y. 392-467
Mr. Dempster.....Toronto, Ont. 218-221
Mr. Dillon .....Toronto, Ont..... 210-222
Mr. Doggett .....Amalgamated Society Carpenters and Joiners 170, 171 204-217, 252-260, 309-329

Mr. P. W. Ellis .....P. W. Ellis & Co., Toronto, Ont..... 452, 461

Mr. J. Firstbrook.....President, Firstbrook Box Co., Toronto, Ont..... 164
Mr. Atwell Fleming.....Fleming Printing Co., Toronto, Ont. 299-307

Mr. George Gander .....President, Builders' Exchange, Toronto, Ont. 169
Mr. W. A. Gartshore....Manager, McClary Manufacturing Co., London, Ont. 269-276
Mr. Gauthier .....Miner, Cobalt, Ont..... 178, 191
Mr. James Gibbons .....Toronto Street Railway Union 150-169 206-223, 356-390, 422, 423, 440, 465
Mr. Gorman .....Cobalt, Ont..... 193, 195
Mr. Charles Gould .....London, Ont. 263-273
Mr. S. R. Gourlay .....Vice-President, Canadian Manufacturers Association 163

Mr. Sam. Harris.....Harris Lithographing Co., Toronto, Ont... 258, 304, 326-331
Mr. E. C. Hunt .....Toronto, Ont.....134, 135, 148

Mr. John Jones .....Builders' Exchange, Toronto, Ont.....260, 261, 276

Prof. D. R. Keys.....University of Toronto 252-260
Mr. G. A. Kingston .....Union Trust Co., Toronto, Ont. 229-258, 418, 434-466
Mr. Kingswell .....Cobalt, Ont. 185-195

LIST OF WITNESSES—Continued.

Mr. C. Lawrence .....Locomotive Engineer..... 151, 153
Mr. Lothian .....Cobalt, Ont. 193, 194

Mr. A. Claude Macdonell, K.C., M.P., Toronto, Ont..... 135-139
Mr. Angus MacMurchy, K.C., Toronto, Ont. 449
Mr. D. L. McCarthy, K.C., Toronto, Ont. 138
Mr. J. P. Maguire .....Cobalt, Ont. 187-195
Mr. J. W. Mahon .....Timiskaming Mines Managers' Association 179-194
Mr. Marks.....Editor, "Industrial Banner"..... 267-269
Mr. Martin .....London, Ont. 261-273
Mr. Meredith.....Railway Trainmen's Union..... 142-154, 204-218, 244-258
Mr. J. G. Merrick .....Employers' Association 164, 362-369
Mr. Andrew Miller.....Carpenters' Union.... 148, 205-224, 303, 440-447, 460, 466
Mr. G. M. Murray.....Secretary, Canadian Manufacturers' Association..... 159-162

Mr. C. H. Neely.....General Manager, Ocean A. & G. Insurance Co..... 230-250
Mr. Nutkins .....London, Ont. 261-272

Mr. O'Connell.....Mines Manager, Cobalt, Ont. 184-192

Mr. J. Ransford.....Manufacturer, Clinton, Ont. 309, 310, 328
Mr. Reesor .....London, Ont. 271-276

Mr. Sangster .....Toronto, Ont..... 359
Mr. Simpson.....London, Ont. 266
Mr. James Simpson ....Typographical Union.....305, 306, 357-360
Mr. A. Smith .....Cobalt, Ont. 189
Mr. W. T. Stewart .....Toronto, Ont..... 137-139
Mr. Stratfold.....London, Ont. 262, 263

Mr. N. Taber .....Toilet Laundry Co..... 149, 150
Mr. W. B. Tindall.....Parry Sound Lumber Co. 369

Mr. Gordon Waldron....Barrister, Toronto, Ont. 226-259
Mr. Ware.....Miners' Union, Porcupine, Ont.....172, 176, 189-192
Mr. G. W. Watts .....Canada Gen. Electric Co.....330, 353-360
Mr. F. W. Wegenast....Solicitor, Canadian Manufacturers' Assoc. ..... 139 *et passim*
Mr. J. Whalen.....Cobalt, Ont. 192, 194, 195

A SHORT SYNOPSIS OF THE BRIEF OF MR. JAMES HARRINGTON BOYD, OF TOLEDO, OHIO, COUNSELLOR-AT-LAW.

The brief contains an argument in favour of the view that the legislature of the State of Ohio (or any of the States of the United States) has power to substitute without the consent of the employer or his employees, industrial insurance, as made and provided in the Workmen's Compensation Act—an act "To create a state insurance fund for the benefit of injured, and the dependants of killed employees, and to provide for the administration of such fund by a State Liability Board of Awards." The act is an adaptation of the German Industrial Insurance Law, a plan of insurance between employer, employees and the State, authorized by law to insure workmen and their dependants against the loss of wages arising out of industrial accidents. The Ohio law is in fact a contract between these parties in the nature of an insurance policy.

An analysis is made of what is believed to be the true theory of industrial insurance, namely, *that under all circumstances it is in fact a tax levied by the state, both upon the employer and employee, and accepted by the employee class for the public welfare.* This is necessarily so, for were the new obligation of the employer deemed to be created with the sole object of establishing in the employee a new private right and remedy in substitution of his former right to sue in tort for damages, then an industrial insurance law would be as unfair to the employee as to the employer. This proposition is true, because in lieu of a possible opportunity formerly belonging to the injured employee to be made whole in a sum for damages fully commensurate with his peculiar loss, he would be compelled under an industrial insurance act to accept a stipulated amount admittedly having no relation to his injury, but measured on the basis of his relative economic position in the community, viz.:—the amount of his wage. This is not a just basis to compensate the employee for his injury, if his new right is to be classified in the same category in which his old right belongs, viz.: a means to redress a private wrong.

The law should require the employee to accept, in lieu of his former precarious right to adequate damages, a stipulated sum computed not independently as to each party injured on the basis of loss peculiar to his own personal injury, but relatively as to all in accordance with their respective earning capacities. Its sole justification is the public welfare, and whatever its form it must be in effect an arbitrary levying and administration of a tax fund.

On this theory, it is argued, the position of employer and employee are altered, that no new statutory privity of relationship is created, but that each is required to perform a new duty toward the State, *the employer to pay an adequate tax, and the employee to surrender a chose in action; each for the public welfare, and in exchange for specific benefits, to surrender to the State certain* rights and to look to a State agency alone for *reciprocal* benefits.

Brief Historical Review of the German Plan of Insurance of Workman against Accidents, of the English Compensation Act, of the Operation of Employers' Liability in England and in the United States, and their Economical Results.

Frederick the Great claimed to be the king of the poor, and to have the right to use the state for their protection and uplifting. The Prussian law of a century ago stated:

"It is the duty of the state to provide sustenance and support for those of its citizens who cannot provide for themselves. Work adapted to their strength and capacities shall be supplied to those who lack means and opportunities of earning a livelihood for themselves and those dependent upon them.

"Those who from laziness, love of idleness, or other irregular proclivities, do not choose to employ the means offered them of earning a livelihood, shall be kept to useful work by compulsion and punishment under proper control.

"The State is entitled and is bound to take such measures as will prevent the destitution of its citizens and check excessive extravagance.

"The police authorities of every place must provide for all poor and destitute persons whose subsistence cannot be insured in any other way.[1]

In England prior to 1837 the principles of the common law of negligence or fault formed the only basis of recovery by a workman from his employer, on account of accident.

In that year Priestly v. Fowler, 3 M. and W. 1, established the fellow-servant rule, that the master is not bound to respond in damages for an injury to his servant in the course of his employment the cause of which was due to the negligence of a fellow-servant.

Prussia in 1838 initiated the principle of the liability of railway companies to provide compensation for industrial accidents. The companies had only the defences of the negligence of the person injured, or the "act of God."

In 1842 Shaw, J. of Massachusetts, in Farwell v. B. & W. R. R. Co. 4 Metcalf 49, laid down the doctrine of assumed risks.

In 1854 statutes were passed in Germany compelling certain classes of employers to contribute one-half of the subscriptions to the sickness association fund, formed according to local statutes.

The obligation was imposed upon independent mechanics and manufacturers to advance the contributions of their journeymen and assistants, with the proviso for charging it to the next payment of wages. As compensation for his share in the payment, the employer is assured a proportionate influence in the administration of the fund.

Brunswick, Mecklenburg and Saxony, went even further than Prussia in requiring all employers to belong to some kind of mutual association.[2]

The act of 1869, for the North German Confederacy had the effect of releasing the bond of compulsory contributions to the sickness fund by employers provided by the act of 1854.

In 1876 there were in all Prussia 5,239 compulsory societies, with 869,304

[1] Fourth Special Report of the Commissioner of Labour of the United States, p. 26.

[2] Fourth Special Report of the Commissioner of Labour of United States, 1893, p. 35.

members. In 1880 Prussian official statistics showed 830,602 members of registered friendly societies, 220,000 of miners' societies, and 200,000 of non-registered friendly societies; in all, 1,250,702 out of 2,400,000 employed in mines and industries within the law. So little effective was the act that half of those for whom the societies (sickness, relief, and burial) were meant were still uninsured.

In England the first employers' liability act was passed in 1880. Its most important provision was the extension of the doctrine of vice-principal, but the relief appears to have been slight and unsatisfactory. The unimpaired rigour of the rule as to assumption of risk became more evident as the use of safety appliances became more general and the number of accidents traceable to the employer's negligence fewer. After an unsuccessful attempt by Mr. Asquith, in 1893, to do away with the common employment rule and the implied contract of assumption of risk, the time was ripe for the introduction, in 1897, of Mr. Chamberlain's Workmen's Compensation Act, the gist of which is to provide unfailing compensation for injured workmen, without regard to negligence.

The efficiency of the British compensation act as compared with the employers' liability act is conclusively shown by statistics. In 1904 there were 3,065 deaths of employees in industrial accidents covered by the compensation act, 524 claims came before the county courts, and 112 were brought under the employers' liability act.

In Germany after investigation by the police, the compensation is fixed officially, and without delay, by the organs of the trade associations.

From the decision of the trade association the applicant may within a month appeal to an arbitration court composed of two representatives chosen by the employer, two by the employees, and a state official as chairman. Arbitration courts for both accidents and invalidity insurance have been in operation since 1901.[8]

As the trade associations have a strong interest in diminishing the number of accidents, the law confers on them the important privilege of making regulations for the prevention of accidents, compelling employers, under penalty of higher assessments, to adopt measures necessary for safety, and by fines forcing observance of these measures upon the workman.

Statistics for the last twenty-five years, particularly German and American statistics, show that from 50 to 55 per cent. of accidents to workmen, injured or killed in the course of their employment, are due to the natural hazard of the business, i.e., to the inevitable risk of the business plus the combined negligence of the employer and employee; that from 18 to 20 per cent are due to the negligence of the employer; and 25 to 30 per cent. to the negligence of the workman. The common law action, based upon fault of the employer, furnishes compensation in less than 20 per cent. of the cases; in less than 12 per cent. in the State of New york, in 8 per cent. in Illinois, and in 6 per cent. in each of the States of Ohio and Pennsylvania. Even if all the common law defences were abrogated, an average of only 12½ per cent. of workmen in industrial employments would recover any compensation. From social and economic points of view, the common law action, based upon fault of the employer, is a failure[1] and is being abandoned in Washington, Ohio, Wisconsin, Massachusetts and Montana.

[8] Dr. George Zacher, Guide, etc., p. 13.

[1] Report of Employers' Liability Commission of Ohio, Pt. 1, pp. 25 to 75. Annals of the American Academy of Political and Social Science, July, 1911.

Statistics of Compulsory State Insurance in Germany.

In 1887 there were insured against sickness and accidents in Germany 3,861,560 workmen among 319,453 establishments.[1] The number of notices of accidents was 106,101.

In 1907, insured in Germany against accidents:[2]	Persons Insured.
Industrial, building, and marine trade associations (associations, 66; establishments, 637,118)	9,018,367
Agriculture and forestry trade associations (associations, 48; establishments, 4,710,401)	11,189,071
State executive boards (boards, 535)	964,589
	21,172,027
In 1897, there were insured in Germany against accidents in the same associations, and 409 State executive boards, in round numbers[3]	18,500,000

Table No. X.—*Industrial Accident Statistics, 1887 to 1897,[3] and 1897[4] to 1907 Under the German Law.*

——	1887	1897	1907 (46,000 accidents).
By fault of—	Per cent.	Per cent.	Per cent.
Employer	20.47	17.30	16.81
Employees	26.56	29.74	28.89
Both parties	8.01	11.14	9.94
Due to negligence of the parties	55.04	57.18	55.64
Due to inevitable risks of the industries and other causes	44.96	42.82	44.36
	100.00	100.00	100.00
Summarized:			
Fault of both parties	8.01	10.14	9.94
Inevitable risks	44.96	42.82	44.36
Natural hazard	52.97	52.96	54.30

Average, 53.41 per cent.

This table, covering a period of 20 years, shows the elements of fault which enter into the problem, and supplies a valuable basis for improvement in preventive measures, since from 55 to 57 per cent. of all accidents are due either to the fault of the employer, of the employee, or of the two combined.

In the opinion of the writer, the scientific and economic value of the statistics in Table X are of the greatest importance; the conclusions are new discoveries in the field of political economy.

[1] Fourth Special Report of the Commissioner of Labor, 1893, p. 83.
[2] Workingmen's insurance in Europe, Frankel and Dawson, 1910, p. 101.
[3] Dr. George Zacher, Introduction to Workmen's Insurance in Germany.
[4] Bulletin of Bureau of Labor, 1908, p. 120.

The statistics of Minnesota and of Wisconsin show that 40 to 50 per cent. of all industrial accidents are due to the inevitable risks of the business; Austrian tables show 70 per cent.[5]

During the decade 1887-1897 there came under the German law 12,500,000 workmen in agriculture, forestry, and the building trades.[6] These workmen were the most ignorant and the most poorly trained of all workmen insured under the law. The percentage of accidents attributable to the negligence of the workman increased from 25.56 per cent. in 1887 to 29.74 per cent. in 1897, an increase of almost 3 per cent. During the period 1897-1907 this element of fault fell from 29.74 per cent. to 28.39 per cent., while the number of such workmen remained practically unchanged. The decline is due to accident prevention, which has been so carefully studied in Germany, and to the greater intelligence of workmen. The percentage of accidents attributable to the employer was in 1887 20.47 per cent.; in 1897, 17.30 per cent.; and in 1907, 16.81 per cent. The percentage of accidents due to natural hazard remains practically constant at 53.41 per cent.

In 52 per cent. of all cases of injury, and in 81.80 per cent. of cases due to natural hazard and the fault of the workman, there is at common law no relief,—none for the workman, none for the dependants. To provide relief for the injured workman, and for his family and dependants, is the immediate purpose of industrial insurance laws. Whether the injury be attributable to the negligence of the employer, or of the employee, or to the natural hazard of the business, the effect on family and dependants is the same, and where common law remedies fail equitable remedies must be sought.

At common law in Great Britain and the United States, a workman can recover damages for injuries due to the negligence of the employer, when the workman's own acts have not contributed to the accident.

The plaintiff can not recover if the defendant proves—

(a) That the plaintiff's negligence contributed to the cause of the accident; or
(b) That the negligence of a fellow-servant was the cause of the accident; or
(c) That the plaintiff assumed the risk.

In the years 1906, 1907, and 1908, ten employers' liability insurance companies doing business in the State of New York:—

Received in premiums from employers	$23,524,000
Paid to injured employees	8,560,000
Waste	[7] $14,964,000

For every $100 paid out by employers for protection against liability to their injured workmen, less than $37 gets to those workmen; $63 goes in salaries to attorneys and to agents whose business it is to defeat claims, to the cost of soliciting business, to the expenses of administration, in court fees, and to profits. The injured workman pays his attorney 26.13 per cent. of the amount received. This investigation covers 46 cases, in each of which the recovery was $1,500 and over. In smaller recoveries attorneys' fees take a larger proportion. Actually, not more than 20 to 25 per cent. of the money paid by the employer reaches the injured workman or his dependants.

[5] Report of the New York Commission, p. 25.
[6] Frankel & Dawson's Workingmen's Insurance in Europe, p. 101.
[7] First Report of the Employers' Liability Commission of New York, p. 31.

GERMANY:—*Causes of Accidents in* 1887.

Attributable Causes.	Per cent.	Number.
Fault of the employer:		
Insufficient apparatus for protection	10.64	1,700
Defective arrangement for carrying on business	7.03	1,122
Lack of directions or improper ones	2.09	334
Totals	19.76	3,156
Fault of injured:		
Awkwardness or inattention	16.49	2,634
Disobedience to orders	5.17	825
Heedlessness	1.98	316
Failure to make use of protective apparatus	1.76	281
Unsuitable clothing	.24	38
Totals	25.64	4,094
Fault of the employed and injured	4.45	711
Fault of third person, particularly a co-labourer	3.28	524
No fault which can be assigned	3.47	554
Inevitable risk when at work	43.40	6,931
Totals	54.60	8,720

Of these 15,970 accidents, in 3,156, less than 20 per cent., would the injured workman be entitled to receive damages, damages of such uncertain amount as a jury might award. In 12,814, over 80 per cent., neither the workman, his family, nor dependants would be entitled to recover anything.

Prior to compulsory state insurance in Germany, workmen at common law and under liability laws received compensation in 10 per cent. only of accident cases.[29]

Results of Accidents in 1887.

Results.	Per cent.	Number.
Death	18.52	2,956
Permanent incapacity:		
Entire	17.70	2,827
Partial	50.88	8,126
Totals	68.58	10,953
Incapacity for a time longer than 13 weeks	12.90	2,061

The bulletin of the United States Bureau of Labour, January, 1908, p. 120, gives statistics, collected by the German Imperial Insurance Office, of 46,000 industrial accidents.

The classification of the causes of these accidents is as follows:

Due to—	Per cent.
1. Negligence or fault of employer	16.81
2. Joint negligence of employer and employee	4.66
3. Negligence of co-employees (fellow-servants)	5.28
4. "Act of God"	2.31
5. Fault or negligence of employee	28.89
6. Inevitable accidents connected with the employment	42.05
Total	100.00

[29] Fourth Special Report of Commissioner Wright, in 1893.

These figures grouped to correspond to those for one year, 1887, are:

Due to—	Per cent.
1. Employer	16.81
2. Employees	28.89
3. The inherent risks of the business	54.30
Total	100.00

Under the German insurance plan, there was paid out during the twenty years ending in 1904:—

On account of—	
Sickness	$555,750,000
Accidents	232,750,000
Invalidity and Old Age	13,500,000
Total	$802,000,000

Of this sum contributions were:—

From—	
Employers	$424,500,000
Workmen	377,000,000
	$801,500,000

The Imperial Government defrayed the cost of administration, and to the invalidity and old age fund contributed fifty marks ($12.50) in each case insured.

	Employers. per cent.	Workmen. per cent.
To sickness insurance	33	67
To accident insurance	85	15
To invalidity and old-age insurance	50	50

Population in 1907	62,000,000
Workmen insured	27,172,000

Under the British system the number of workmen insured in 1908 was 13,000,000.

Compensation for death:

(*a*) A sum equal to three years' earnings, but not less than £150 ($730) nor more than £300 ($1,460).

(*b*) A sum less than above amount to partial dependants.

(*c*) Medical and funeral expenses, not to exceed £10 ($49), if no dependants.

Compensation for disability:

A weekly payment during disability of not more than 50 per cent. of the workman's average weekly earnings, but not exceeding £1 ($4.87) a week; if the incapacity lasts less than two weeks, no compensation is allowed the first week.

Liability for payment of compensation is on the employer, and he is not obliged to insure. From both the German and English systems have been eliminated the three common law doctrines—contributory negligence, assumption of risk, fellow-servant—and only in the case of proved malicious negligence ("serious and wilful misconduct") is compensation disallowed.

Statistics show that in the United States social and economic conditions are gravely threatened by the industrial insecurity of the workman under the common law and liability acts. Compulsory State insurance seeks to conserve the workman's normal capacity and to bring it to the highest efficiency.

Industrial accidents in the United States are due to:

Inherent risks of business	50 per cent.
Negligence of employer	20 per cent.
Negligence of workman	12½ per cent.

In 1909, the killed and injured workmen in the United States numbered 536,000. At common law for 80 per cent. there would be no relief.

Ohio recognizes the State's duty to provide for its injured and helpless workmen and their families. Whether this can be better done under the older laws or under the present act the following comparative statement will show:

1. (*a*) Under the older laws, the average payment for death is $344.88
   (*b*) Under the act, an average of $2,200.
2. (*a*) Older laws, average cost of collection, 24 per cent.
   (*b*) New act, no deductions.
3. (*a*) 36 per cent. receive something; 64 per cent. nothing.
   (*b*) 80 to 95 per cent. receive compensation.
4. (*a*) Of the 36 per cent. who get something, 60 per cent. get from $50 to $500, and 12 per cent. get more than 50 per cent. of the actual amount paid.
   (*b*) The average of $2,200 is paid without deductions.
5. (*a*) There is delay in payment, from one to five years, with resultant hardships for the family.
   (*b*) No delay. As a rule the compensation is not paid in a lump sum, but, in general, as the wages had been paid.
6. (*a*) 56 per cent. of the widows, and 18 per cent. of the children, are forced to work.
   (*b*) The percentages will be reduced, probably to 10 and 4 respectively.

The act provides in case of death for minimum and maximum payments of $1,500 and $3,400, with $150 allowance for medical and funeral expenses.

Where the injury results in total disability payment is made of 60 per cent. of wages for not more than 300 weeks. For partial disability, 60 per cent, of impaired earning capacity during the continuance of the disability, or from $5 to $12 a week.

An employer who elects not to come under the act forfeits his right to the usual common law defences. The workman of an employer within the act is himself within the act, but in the event of being denied all right to compensation, or where his injury is due to the wilful negligence of the employer, or to the employer's violation of a statutory duty, the workman is not precluded from other legal remedies.

The employer contributes ninety per cent. of the premium, the worker ten per cent. The cost to the workman will probably be from one to two dollars a year. The argument for making the employer and the workman joint contributors is that it will create in each a vital interest in accident prevention.

The Treasurer of State is the custodian of the fund, and all disbursements therefrom are, upon duly signed vouchers, paid by him.

The Ohio Act is an adaptation of the German Industrial Accident Insurance Law of 1884, which, in more or less modified form, has been followed by all the countries of Europe.

Dr. Laband, analysing the industrial insurance legislation of Germany and of other European countries, says (Droit Public de l'Imperial Allemand, IV., 12):

"The Imperial legislation starts from this idea—that the undertaker of an enterprise who employs workmen in order to appropriate to himself the economic value of the fruits of their labour owes them not only the agreed wages for their labour, but ought also to bear with them the risks of accident resulting from this labour. This conception has not taken the shape of a principle of private law which governs the relations resulting, in a judicial sense, from the labour contract; it has become the duty of the State to take care of the victim of an industrial accident and of his dependants; and this duty is effected by means of public law. *The right of the workman to the solicitude of the State is wholly independent of and unaffected by any contract between him and his employer.* The right is not founded on, nor is it affected by fault in either employer or workman, unless fault in either of them has been proved intentional. The obligation to aid the workman is not a legal obligation, or what is called a State obligation, of the master to his workman, for master and workman are not set against one another as debtor and creditor, and they are powerless to vary the right of the one to aids and the obligation of the other to give them. The workman and his dependants receive the aids through an intermediary delegated by the State who performs a purely administrative function, and who has no private legal relation with either the workman or his dependants!*

The distinction between the principles applicable to the common law of torts and to employers' liability acts, and the principles applicable to industrial insurance or workmen's compensation may be stated in the following propositions:

1. *"The body of law involved in the law of torts and in employers' liability acts results in the payment to the employee of damages intended to be commensurate with the injury suffered. Such law has for its sole object and end the regulation of private rights, that is, the readjustment of relationship between individuals, to reproduce the parity presumptively existing between them.*

2. *"The obligations of Industrial Insurance and Workmen's Compensation Acts arise from contingencies not dependent upon nor within the control of the parties; have no relationship whatever to the conduct of the parties; are not based upon wrongs. It follows then that they must pertain to the subject of government regulations, and are in the nature of economic provisions in the form of indirect taxation levied to regulate occupations. On what other basis would the government be justified in writing an insurance policy into the labour contract? Were this not so, industrial insurance and workmen's compensation would be free from the standpoint of both employee and employer, without basis of justice or equity, for the theory is that compensation is not to be commensurate with injury, but is to be based upon wages, thus substituting for the former obligations based upon tort, a purely arbitrary sum. Such a scheme can have no relation to the adjustment of private wrongs. If justifiable, it must be on the sociologic and economic theory of the right of the State to levy a tax for the purpose of protecting the community as a whole."*

* R. J. Cary Brief on Industrial Insurance Law.

ORDER-IN-COUNCIL

APPROVING OF

PAPER CONTRACT

required by the Government for the term of Five Years computed from the

First day of February, 1912

PRINTED BY ORDER OF
THE LEGISLATIVE ASSEMBLY OF ONTARIO

TORONTO:
Printed and Published by L. K. CAMERON, Printer to the King's Most Excellent Majesty
1912.

Printed by
WILLIAM BRIGGS,
29-37 Richmond Street West,
TORONTO.

CERTAIN AGREEMENTS MADE IN DUPLICATE for the supplying of printing paper required by the Government for the term of five years, computed from the first day of February, 1912.

Presented to the Legislative Assembly,

By Command,

W. J. HANNA,
Provincial Secretary.

Copy of an Order-in-Council approved by His Honour the Lieutenant-Governor, the 30th day of January, A.D. 1912.

Upon the recommendation of the Honourable the Treasurer, the Committee of Council advise that in accordance with the report of Dr. D. J. Goggin, the expert appointed to examine the prices and qualities of papers submitted in the tenders for printing papers required for the use of the Province of Ontario during the five years commencing on the 1st day of February, 1912, the following tenders be accepted, namely:—

No. 1 Print
No. 1 Super-Calendered } Kinleith Paper Company, Limited.
Special Statute

No. 1 Coated Paper, Georgetown Coated Paper Mills, Limited.

Cover Paper, Montrose Paper Mills.

and that an agreement be entered into between the said respective contractors and His Majesty the King, represented therein by the Treasurer of the Province of Ontario for the supply of the said papers, said contracts to be subject to ratification by the vote of the Legislative Assembly of Ontario at its next Session.

Certified,

J. LONSDALE CAPREOL,
Clerk, Executive Council.

This agreement made in duplicate this thirteenth day of March, one thousand nine hundred and twelve, between Kinleith Paper Company, Limited, of the City of St. Catharines, in the County of Lincoln, and Province of Ontario, hereinafter called "the Contractor" of the First Part and His Majesty the King represented herein by the Honourable Arthur James Matheson, Treasurer of the Province of Ontario, hereinafter called "the Treasurer" of the Second Part.

Whereas by advertisement dated the twenty-second day of December, 1911, and duly published, Tenders were called for by Ludwig K. Cameron, Printer to the King's Most Excellent Majesty, for the printing paper that may be required by the Government of Ontario for a term of five years to be computed from the 1st day of February, 1912, according to certain specifications therein referred to;

And whereas a Tender was received from the Contractor amongst others for the supplying of such paper;

And whereas by Order-in-Council dated the 30th day of January, A.D. 1912, the Tender of the Contractor was accepted so far as the same relates to the classes of paper hereinafter mentioned and for a term of five years to be computed from the 1st day of February, 1912, and it was ordered that an agreement be entered into between the Contractor and His Majesty subject to the ratification thereof by a vote of the Legislative Assembly of Ontario at its next Session;

Now therefore this Agreement witnesseth that the Contractor agrees with the Treasurer to furnish all the supply of paper including that required for the Revised Statutes now in course of preparation of the following kinds and descriptions, namely:—

(*a*) Double Royal, 27 x 41 inches, No. 1 print, 65 lbs. to ream of 500 sheets;
(*b*) Double Demy, 24 x 36 inches, No. 1 print, 55 lbs. to ream of 500 sheets;
(*c*) Double Royal, 27 x 41 inches, No. 1 Super-calendered, 80 lbs. to ream of 500 sheets;
(*d*) Double Demy, 24 x 36 inches, No. 1 Super-calendered, 60 lbs. to ream of 500 sheets;
(*e*) Quad. Cap, 25½ x 30 inches, No. 1 print, 46 lbs. to ream of 500 sheets;
(*f*) Special Statute paper, 27 inches by 41 inches, Double Royal, No. 1 special, 65 lbs. to ream of 500 sheets;

as the same may be required for the use of the Province of Ontario during the five years to be computed from the 1st day of February, 1912, at the times and places and in the manner and subject to the terms and conditions hereinafter set forth.

1. Each of the above classes of paper is to be packed flat and delivered in packages of 2 reams of 500 sheets each to a package, entirely covered by strong wrapping paper and securely tied with strong twine.

2. The paper to be furnished at such times and in such quantities as may be required by the King's Printer and delivered to or for him at such places in the City of Toronto as he shall designate free from all charges for delivery in first class condition.

3. Payment is to be made for the paper by cheque from the Treasury Department within thirty days after delivery at the following rates:—

For paper, Class (*a*) (lettered above) at the rate of 3.99c. per lb.
For paper, Class (*b*) (lettered above) at the rate of 3.99c. per lb.
For paper, Class (*c*) (lettered above) at the rate of 4.08c. per lb.
For paper, Class (*d*) (lettered above) at the rate of 4.08c. per lb.
For paper, Class (*e*) (lettered above) at the rate of 3.83c. per lb.
For paper, Class (*f*) (lettered above) at the rate of 4.24c. per lb.

4. Should the Contractor be backward at any time in delivering the paper of any of the above described classes the King's Printer may procure the same elsewhere and if so procured at a greater cost than that fixed by this agreement, the Contractor shall be liable to the Treasurer for the excess.

5. The said Contractor agrees in all things to conform, fulfil and abide by the terms and conditions above set forth to the full and entire satisfaction of the King's Printer of Ontario, provided that in case any difference or dispute shall arise between the Contractor and the King's Printer the same may be investigated and finally determined by the Lieutenant-Governor-in-Council; and it is hereby further agreed that this contract is subject to ratification by vote of the Legislative Assembly of Ontario and shall become void and of no effect unless approved by resolution of the said Legislative Assembly at its next Session.

In witness whereof the said Contractor has hereunto set its corporate seal at the hand of its President and Secretary the day and year first above written, and the Treasurer has set his hand and seal.

Signed and executed in the presence of

E. M. Hodge.

Geo. H. Jefferson.

Kinleith Paper Company, Limited,

W. J. Gage,
President.

Kinleith Paper Company, Limited,

C. Stewart-Patterson,
Secretary.

C. A. Matthews.

I. B. Lucas,
Acting Provincial Treasurer.

This Agreement made in duplicate this first day of February, one thousand nine hundred and twelve, between Montrose Paper Mills, Limited, of the Town of Thorold, in the County of Welland and Province of Ontario, hereinafter called "the Contractor," of the First Part, and His Majesty the King, represented herein by the Honourable Arthur James Matheson, Treasurer of the Province of Ontario, hereinafter called "the Treasurer," of the Second Part.

Whereas by advertisement dated the twenty-second day of December, 1911, and duly published, Tenders were called by Ludwig K. Cameron, Printer to the King's Most Excellent Majesty, for the printing paper that may be required by the Government of Ontario for a term of five years to be computed from the 1st day of February, 1912, according to certain specifications therein referred to;

And whereas a Tender was received from the Contractor amongst others for the supplying of such paper;

And whereas by Order-in-Council dated the 30th day of January, A.D. 1912, the Tender of the Contractor was accepted so far as the same relates to the classes of paper hereinafter mentioned and for a term of five years to be computed from the 1st day of February, 1912, and it was ordered that an agreement be entered into between the Contractor and His Majesty, subject to the ratification thereof by a vote of the Legislative Assembly of the Province of Ontario at its next Session;

Now therefore this Agreement witnesseth that the Contractor agrees with the Treasurer to furnish all the supply of paper of the following kinds and descriptions, namely:—

(*a*) Royal Cover, 20 x 29 inches, Mill finish, color blue, 36 lbs. to ream of 500 sheets.
(*b*) Demy Cover, 18 x 25 inches, Mill finish, color blue, 30 lbs. to ream of 500 sheets.
(*c*) Extra Quality Cover Paper, 25½ x 36 inches, Mill finish, color blue, 84 lbs. to ream of 500 sheets.
(*d*) Extra Quality Cover Paper, 27 x 41 inches, Mill finish, color blue, 100 lbs. to ream of 500 sheets.
(*e*) Extra Quality Cover Paper, 29 x 41 inches, Mill finish, color blue, 150 lbs. to ream of 500 sheets.

as the same may be required for the use of the Province of Ontario during the five years to be computed from the 1st day of February, 1912, at the times and places and in the manner and subject to the terms and conditions hereinafter set forth:—

1. Each of the above classes of paper is to be packed flat and delivered in packages of 2 reams of 500 sheets each to a package, entirely covered by a strong wrapping paper and securely tied wtih strong twine;

2. The paper is to be furnished at such times and in such quantities as may be required by the King's Printer and delivered to or for him at such places in the City of Toronto as he shall designate free from all charges for delivery in first class condition;

3. Payment is to be made for the paper by cheque from the Treasury Department within thirty days after delivery at the following rates:—
For paper, Class (*a*) lettered above at the rate of 4¾ cents per lb.
For paper, Class (*b*) lettered above at the rate of 4¾ cents per lb.
For paper, Class (*c*) lettered above at the rate of 6 cents per lb.
For paper, Class (*d*) lettered above at the rate of 6 cents per lb.
For paper, Class (*e*) lettered above at the rate of 6 cents per lb.

4. Should the Contractor be backward at any time in delivering the paper of any of the above described classes the King's Printer may procure the same elsewhere, and if so procured at a greater cost than that fixed by this agreement, the Contractor shall be liable to the Treasurer for the excess.

5. The Contractor agrees in all things to conform, fulfil and abide by the terms and conditions above set forth to the full and entire satisfaction of the King's Printer of Ontario, provided that in case any difference or dispute shall arise between the Contractor and the King's Printer the same may be investigated and finally determined by the Lieutenant-Governor-in-Council; and it is hereby further agreed that this contract is subject to ratification by vote of the Legislative Assembly of Ontario and shall become void and of no effect unless approved by resolution of the said Legislative Assembly at its next session.

In witness whereof the said Contractor has hereunto set its corporate seal at the hand of its President and Secretary the day and year first above written, and the Treasurer has set his hand and seal.

Signed and executed in the presence of
H. L. POLSON,
as to the President, Vice-President and Treasurer of the Montrose Paper Mills, Limited.

W. A. GEDDES,
as to the Treasurer of Ontario.

T. A. WELDON,
President.
G. R. COPPING,
Vice-Pres. and Treasurer.
ARTHUR J. MATHESON,
Treasurer of Ontario.

This Agreement made in duplicate this eleventh day of March. one thousand nine hundred and twelve, between Georgetown Coated Paper Mills, Limited, of the Town of Georgetown, in the County of Halton, and Province of Ontario, hereinafter called "the Contractor" of the First Part, and His Majesty the King, represented herein by the Honourable Arthur James Matheson, Treasurer of the Province of Ontario, hereinafter called "the Treasurer" of the Second Part.

Whereas by advertisement dated the twenty-second day of December, 1911, and duly published, Tenders were called by Ludwig K. Cameron, Printer to the King's Most Excellent Majesty, for the printing paper that may be required by the Government of Ontario for a term of five years to be computed from the 1st day of February, 1912, according to certain specifications therein referred to;

And whereas a tender was received from the Contractor amongst others for the supplying of such paper;

And whereas by Order-in-Council dated the 30th of January, A.D. 1912, the Tender of the Contractor was accepted so far as the same related to the classes of paper hereinafter mentioned and for a term of five years to be computed from the 1st day of February, 1912, and it was ordered that an agreement be entered into between the Contractor and His Majesty, subject to the ratification thereof by a vote of the Legislative Assembly of the Province of Ontario at its next Session;

Now therefore this Agreement witnesseth that the Contractor agrees with the Treasurer to furnish all the supply of paper of the following kinds and descriptions, namely:—

(*a*) Double Royal, 27 x 41 inches, No. 1, Coated, 70, 80 and 100 lbs. to ream of 500 sheets;
(*b*) Double Demy, 24 x 36 inches, No. 1, Coated, 60, 70 and 80 lbs. to ream of 500 sheets;

as the same may be required for the use of the Province of Ontario during the five years to be computed from the 1st day of February, 1912, at the times and places and in the manner and subject to the terms and conditions hereinafter set forth:—

1. Each of the above classes of paper is to be packed flat and delivered in packages of 2 reams of 500 sheets each to a package, entirely covered by strong wrapping paper and securely tied with strong twine;

2. The paper is to be furnished at such times and in such quantities as may be required by the King's Printer and delivered to or for him at such places in the City of Toronto as he shall designate free from all charges for delivery in first class condition;

3. Payment is to be made for the paper by cheque from the Treasury Department within thirty days after delivery at the following rates:—

For paper, Class A 27 x 41	(*a*) lettered, at the rate of	$7.70 per 100 lbs.
	(*b*) lettered, at the rate of	6.45 per 100 lbs.
	(*c*) lettered, at the rate of	6.20 per 100 lbs.
	(*d*) lettered, at the rate of	5.95 per 100 lbs.
For paper, Class B 24 x 36	(*a*) lettered, at the rate of	7.70 per 100 lbs.
	(*b*) lettered, at the rate of	6.45 per 100 lbs.
	(*c*) lettered, at the rate of	6.20 per 100 lbs.
	(*d*) lettered, at the rate of	5.95 per 100 lbs.

4. Should the Contractor be backward at any time in delivering the paper of any of the above described classes the King's Printer may procure the same elsewhere and if so procured at a greater cost than that fixed by this agreement, the Contractor shall be liable to the Treasurer for the excess.

5. The Contractor agrees in all things to conform, fulfil and abide by the terms and conditions above set forth to the full and entire satisfaction of the King's Printer of Ontario, provided that in case any difference or dispute shall arise between the Contractor and the King's Printer the same may be investigated and finally determined by the Lieutenant-Governor-in-Council; and it is hereby further agreed that this contract is subject to ratification by vote of the Legislative Assembly of Ontario and shall become void and of no effect unless approved by resolution of the said Legislative Assembly at its next Session.

In witness whereof the said Contractor has hereunto set its Corporate Seal at the hand of its President and Secretary the day and year first above written, and the Treasurer has set his hand and seal.

GEORGETOWN COATED PAPER MILLS, LIMITED,

Signed and executed in the presence of

J. A. WILLOUGHBY, President.

P. B. COFFIN.

J. A. WILLOUGHBY, Secretary.

C. A. MATTHEWS.

I. B. LUCAS, Acting Treasurer.

TORONTO, January 25, 1912.

SIR,—In accordance with your instructions, I have examined the samples of Government Printing Paper submitted by St. Lawrence Paper Mills, Limited; Kinleith Paper Co., Limited; Canada Paper Co., Limited; William Barber & Bros., Limited; Barber-Ellis, Limited; Georgetown Coated Paper Mills, Limited; Ritchie & Ramsay, Limited; Canada Coating Mills, Limited; Montrose Paper Mills, Limited.

On the basis of quality and price, I recommend as follows:

No. 1 Print, No. 1 Super-Calendered, Special Statute.—Kinleith Paper Co., Limited.

No. 1 Coated Paper.—Georgetown Coated Paper Mills, Limited.

Cover Paper.—Montrose Paper Mills.

I have the honour to be,

Sir,

Your obedient servant,
(Signed) D. J. GOGGIN.

HON. A. J. MATHESON,
Provincial Treasurer.

SEALED TENDERS,

Addressed to Hon. A. J. Matheson, Provincial Treasurer, Toronto, and endorsed "Tenders for Printing Paper" will be received till noon the 15th day of January, 1912, for the printing paper that may be required by the Government of Ontario for a term of five years, to be computed from the 1st of February, 1912.

Blank forms of specifications, together with all needed information, will be furnished from the office of the undersigned, Parliament Buildings, Toronto.

L. K. CAMERON,
King's Printer.

Toronto, December 22nd, 1911.

SPECIFICATIONS

For Printing Papers required by the Government of Ontario, during the next consecutive five years, and commencing with the first day of February, 1912.

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Double Demy, 24 × 36, No. 1 Super-Calendered, 60 lbs. to ream of 500 sheets .....
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Should the Contractors be at any time backward in delivering any of the above papers, the right is reserved to have the same procured elsewhere, deducting from the accounts the difference, if any, in the cost.

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Separate contracts may be entered into for the No. 1 Paper, the Coated Paper, Cover Paper, and the Special Statute Paper.

The Department is not bound to accept the lowest or any Tender.

Sealed tenders, with samples of papers and prices, to be sent to the Hon. A. J Matheson, Provincial Treasurer, Toronto, till noon of Monday, January 15th, 1912.

By order,
L. K. CAMERON,
King's Printer.

REPORT

OF

SPECIAL INVESTIGATION

INTO THE

CAUSE OF TYPHOID FEVER

IN THE

TOWN OF SARNIA

Jan. 29th and 30th, 1912

(PROVINCIAL BOARD OF HEALTH, ONTARIO)

PRINTED BY ORDER OF

THE LEGISLATIVE ASSEMBLY OF ONTARIO

TORONTO:
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1912.

Printed by
WILLIAM BRIGGS,
29-37 Richmond Street West,
TORONTO.

To the Honourable W. J. Hanna,
Provincial Secretary.

Sir,—I have the honour to present herewith report of the special investigation held under the provisions of the Public Health Act into the cause of the prevalence of Typhoid Fever in the Town of Sarnia.

I have the honour to be,

Your obedient servant,

John W. S. McCullough.

Toronto, February 1st, 1912.

INDEX.

NAME	PAGE
Dr. McCullough's Report	2
Robert W. Bell	19
Mary Oxenham	24
D. S. Bentley	25
John Amyot	28
G. G. Nasmith	39, 62
Archibald McLean	39
John F. James	43
A. C. Pousette	45
George Brown	49
Joseph B. Dagan	52
S. B. Wilkinson	54
Alexander Bell	58
Richard Bell	63
Robert Foote	67
James D. Stewart	68
Edward M. Ross	71
Thomas Doherty	74
Albert Johnston	81
Eldon Wood	82
L. L. Studor	83
Charles Bell	83
James MacDonald	83
William A. Brown	84
D. M. Morrison	85
John Garroch	86
Robert MacAdams	86
Alexander Kelly	89, 144
Thomas Bradley	92
George P. France	96
Henry A. McLean	99, 107
John McGibbon	101
Johnson McAdams	102
W. F. B. Colter	110
W. A. Henderson	110
John Goodison	112
William J. Thompson	113
J. W. Hamilton	115
W. A. Wiggins	117
Robt. McDonald	119
W. E. C. Workman	121
A. N. Hayes	122
William Logie	124
C. C. Whittaker	126
W. R. Hall	127
M. McKenzie	130
Wm. H. Reid	134, 137
D. Milne	135
W. J. Proctor	142
A. K. Wanless	146
Louis Meyers	155
Thomas Acton	157
Bacteriological Examination, Sarnia Water	158
Typhoid in Petrolea	161
Statement Mayor McGibbon	162
Statement Dr. A. C. Poussette	163

Report of Special Investigation into the Cause of Typhoid Fever in the Town of Sarnia

The following is a report of the special investigation made into the cause of the prevalence of typhoid fever in the town of Sarnia.

The inquiry which was made under the Public Health Act began on January 29th last and continued for two days. Some fifty witnesses were examined under oath and their testimony is appended. Almost every witness gave his evidence freely and voluntarily. In one case only did a witness refuse to give evidence, the reason assigned being that he would not attend unless paid a fee of $4.00.

The Town of Sarnia is situated on the left bank of the St. Clair River separating it from the City of Port Huron on the United States side. The centre of the town is some two and a half miles south of Lake Huron. The population is about 10,000. The water supply is secured from the current of the St. Clair by an intake extending 700 feet into the stream from the pumping station at the foot of George Street. The supply, about 3,000,000 gallons daily, is pumped directly and supplies almost the entire population.

In the month of December, 1911, my attention was called to the prevalence of this fever there by Dr. D. B. Bentley, a member of the Provincial Board of Health, whereupon I at once made a hurried visit to the town, and, concluding that the water supply was at fault, ordered a chlorinating plant established, which was done, the plant being in complete operation about the 27th December, 1911. I also advised through the newspapers, etc., that water users should boil the water used for any domestic purpose. These precautions would seem to have had good effect, as the number of new cases speedily diminished. Immediately following my visit, I sent Dr. R. W. Bell, Medical Inspector of the Board, to Sarnia, to make a thorough investigation into the cause and have each case traced up. His report is attached and confirmed the impressions I had already formed. Still there were parties in the town who expressed themselves as doubtful if the water could be the chief cause.

About this time a couple of divers made an examination of the intake and found it broken at a point less than 300 feet from the pump house, showing that for some time the supply was not being received from the current of the river.

There had been examinations of the water made from time to time as far back as the year 1903, a number of which showed the water to be contaminated. The intake was extended to its present situation in 1905. An examination of the hospital records in respect to typhoid fever, however, showed that continuously from 1898 forward there had been too many cases of this disease, making it apparent that the extension of the intake had not produced the results expected. That the whole situation might be cleared up and that the citizens of Sarnia might have the data before them whereby they might be able intelligently to appreciate the true condition of affairs, this investigation was undertaken. The results justify, it seems to me, its necessity and importance. The evidence attached will enable the people to form their own judgment.

The evidence establishes:—

(1) That there were in the town during the year 1911, 151 cases of typhoid, of which 136 occurred during the months of November and December.

(2) That the contaminated water supply was, especially during these latter months, the sole cause. This is evidenced by the widespread distribution over the town, the occurrence of the large proportion of cases during the cold season, the absence of other causes, as milk, etc. Contact cases are practically eliminated, it being shown by the evidence of Dr. Bentley and others that second cases in the same house occurred at the same time. The figures in respect to milk inspection are given in the evidence of Dr. R. W. Bell. The evidence of Dr. Wilkinson respecting the prevalence of cases in a strip of territory adjacent to the St. Clair River is of especial significance.

(3) That the water supply was contaminated at various times since 1903 is shown by examinations made in the State Laboratory of Hygiene, Ann Arbor, Mich., by the bacteriologist and chemist of the Imperial Oil Company of Sarnia, and repeatedly by the officers of the Laboratory of the Provincial Board of Health at Toronto.

(4) In addition, the evidence goes to show that there is danger of pollution of the water supply from the sewage of the town which has its outlet at the foot of Cromwell Street, a couple of blocks below the intake, through the influence of currents sweeping northward into the bay, by the disturbance of bay water by these currents, by the rising and falling of the bay waters due to north and south winds, and by the ebb and flow caused by large vessels passing up and down. Besides this there is the sewage from the steamboats and from the considerable population at the mills north of the intake, and from Point Edward, a village where the lake empties into the river.

(5) That during the years 1898 onward there was a very large number of cases of typhoid. It was shown by the evidence of most of the medical practitioners of the town that for every case treated in the hospital there were at least two treated in the homes of the town. This being the case, it will be seen from the following table that there has been during the last 14 years an almost continuous epidemic of the disease.

TYPHOID FEVER CASES IN THE SARNIA GENERAL HOSPITAL.

Year.	Total Cases.	Cases from Sarnia Town.
1896	2	2
1897	14	8
1898	27	10
1899	50	24
1900	80	58
1901	89	55
1902	109	73
1903	57	40
1904	25	18
1905	57	46
1906	55	41
1907	37	28
1908	60	49
1909	66	46
1910	60	35
1911	76	59

(6) That the death rate was abnormally large. In the years 1900 to 1911 inclusive, the records of the Registrar General's Department show an average of almost 9 yearly, or a total of 98 deaths. Taking the population at 10,000, this means 90 per 100,000. For 1911 it means 140 per 100,000. A death rate from typhoid of above 20 per 100,000 is considered by sanitarians to be an epidemic, to be too great. That of Toronto during 1911 was 20 per

100,000. Taking the population of Toronto at 400,000, an equivalent number of cases for that city for 1911 would be 6,000, and the comparative deaths 560! The total typhoid fever death rate for adjacent towns during the last eleven years is—Chatham (12,000) 57; Windsor (18,000) 84; that of Petrolea which takes its supply from Lake Huron, a distance of about 14 miles, is very low. Last year there was but one case and *in eleven years but one death.*

The evidence as to the length of time the intake has lain in its damaged condition was indefinite. One diver said two years, the other could make no definite statement as to this. It was evidently broken and torn from its place by the anchor of a vessel, and there seems to be no guarantee that it could in its present situation ever be made secure against such an accident.

The danger from contamination of the supply, even if the intake were intact, as evidenced by the chances of pollution mentioned, the results of water examinations as well as the fact that the fever rate kept much the same after the intake extension in 1905, make it absolutely certain that this source of supply should be abandoned and a safe supply secured which will prevent a recurrence of such an almost continuous outbreak of a preventable disease as this town has had over a long period of years.

It may be of interest to consider the financial loss to the town by this large number of deaths, and attendant illness, and for this purpose let us see how many of the 98 who died during these 11 years had reached adult age. They number 76.

It will be allowed that the life value of an adult is $2,000. This is a moderate estimate; the courts usually allow twice this sum. The loss thus calculated equals $152,000. The funeral expenses of this number may be placed at the low estimate of $25 each; this will give $1,900.

The death-rate of typhoid fever compared with the number of cases is found by careful comparison to be about 10 per cent., which means that for every one who died nine others would recover from the disease. Seventy-six multiplied by nine equal six hundred and eighty-four (684). The cost of medical attendance and nursing for these would average $25 each, making $17,100.

On an average the disease with its convalescence reaches a period of forty-three days, and if we consider this time to be worth $1.00 per day, the total loss in this respect would aggregate $29,412, and the grand total would be:

76 deaths at $2,000	$152,000 00
76 burial expenses at $25	1,900 00
684 illness expenses at $25	17,100 00
684, 43 days each, at $1	29,412 00
Total	$200,412 00

Thus we obtain at this moderate estimate the sum of $200,412.00 in eleven years, or a yearly average loss in money of $18,219.

$18,219 represents at 4 per cent. a capital of $455,475. So that this town from a financial point of view has lost on an average the interest at 4 per cent. on this enormous sum for the last eleven years. Who will deny that a safe water supply would have paid?

The financial loss and suffering experienced by those who happily recovered is bad enough, but none can imagine the loss to a community of 98 lives in 11 years except those who have personally experienced in their homes the deaths,

which by the exercise of care and foresight on the part of the authorities, might have been prevented.

Instead of making known the dangerous character of the water as shown by the reports from the Laboratory at Ann Arbor as well as those from the Provincial Laboratory, it is evident that the Ann Arbor reports were suppressed, and no warning given to those who, thinking it was safe, unconsciously were daily consuming sewage-polluted water. It is to be hoped that this investigation will prevent any further bolstering up of a water supply which is not only suspicious but dangerous.

It would seem that if Petrolea, fourteen miles distant from Lake Huron, is able to secure a safe supply from the Lake, there should be little difficulty in Sarnia's doing the same.

I desire to express my appreciation of the co-operation of those citizens of Sarnia and elsewhere, and especially of busy medical men who attended at the investigation and gave their evidence. My task was consequently made most easy and pleasant. During the whole investigation the assistance of the Provincial Inspector, Dr. Bell, who had the most laborious part of the work to perform, was of the greatest value.

All of which is respectfully submitted.

JOHN W. S. MCCULLOUGH,

Chief Health Officer.

As this report is going to press the following list of typhoid cases in Sarnia with the deaths from the 16th December to February 24th has been reported by the Local Board of Health.

As the chlorination plant was in active operation about December 27th, these figures would seem to be significant of its value in checking the spread of the epidemic.

Of the three cases in the town on February 24th, one came from Port Huron.

	Week ending	Cases	Deaths
1911	Dec. 16th	7	0
	Dec. 23rd	*116	0
	Dec. 30th	16	3
1912	Jan. 6th	3	3
	Jan. 13th	1	0
	Jan. 20th	4	0
	Jan. 27th	4	2
	Feb. 3rd	3	0
	Feb. 10th	2	0
	Feb. 17th	0	0
	Feb. 24th	1	0
		157	8

*This weekly report was made to include cases not previously reported to the Local Medical Health Officer.

SWORN STATEMENT OF CHARLES MARGERISON, DIVER.

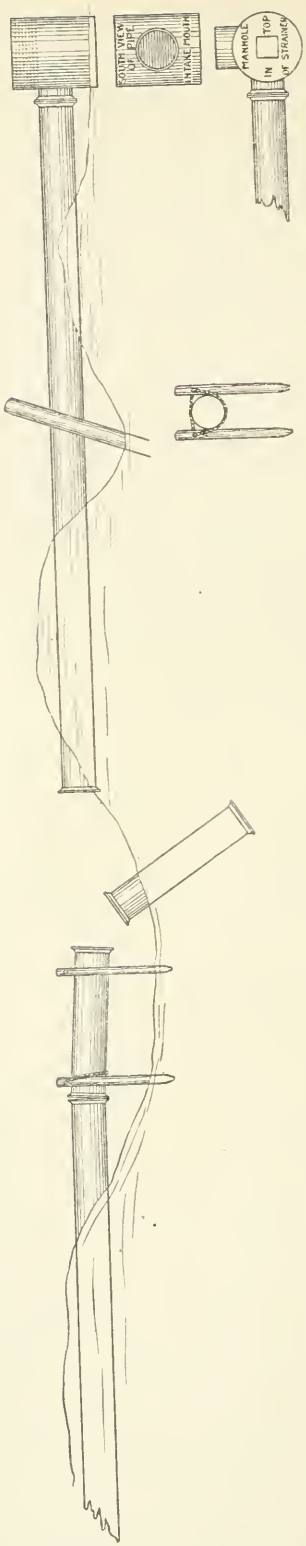
Exhibit VI. Toronto, January 25, 1912.

Intake Examination at Sarnia, Ont.

On Thursday, December 28th, 1911, I received orders to proceed with equipment and examine intake at Sarnia, Ontario. I arrived there at midnight and commenced work of inspection the following morning (Friday). Starting at intake mouth and working towards the shore, I found the intake mouth choked with sand and a slimy coating over the pipe. Further on, as shown in my sketch, I found a break in the pipe. The condition of the river bottom is anything but clean, deposits of all kinds being there. At the time of my examination, a dirty, creamy fluid was passing into the pipe where same was broken. The condition of the pipe is very rusty, and in my opinion has been broken for two years. Break in pipe was caused, I would say, by an anchor of some kind getting foul and dragging pipe out of place. Would suggest that a screen of expanded metal be placed over broken pipe at once. This could be done quickly and cheaply. I see you have installed Mr. Henning's chlorinating device, which, I am sure, will be a boon to the citizens and lessen sickness.

Yours very truly,

Charles Margerison.



Sketch of Broken Intake as described by
Divers Margerison and Meyers.

This is the paper writing marked "A" referred to in Declaration of Charles Margerison, declared before me this 25th day of January, A.D. 1912.

FRANCIS A. EDDIS, *a Commissioner, etc.*

Dominion of Canada
Province of Ontario,
County of York,
In the matter of the examination of the Intake Pipe of the Water Works System at Sarnia, Ontario,

To Wit: I, Charles Margerison, of the City of Toronto, in the County of York, City Diver, do solemnly declare that the paper writing hereto annexed and marked "A" is a true report of the examination made by me of the Intake Pipe of the Water Works System at Sarnia, Ontario.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of "The Canada Evidence Act."

Declared before me at the city of Toronto, in the County of York, this 25th day of January, in the year of our Lord 1912.

CHARLES MARGERISON, *City Diver*
FRANCIS A. EDDIS, *a Commissioner, etc.*

Exhibit No. III.

Extract from "'REPORT RE UNSANITARY CONDITIONS, SARNIA,"

BY DR. R. W. BELL, dated June 30th, 1911.

Water Supply.—This is taken from the St. Clair River, an intake pipe extending out 700 feet from the foot of George Street, until clear of the bay and into the current. The bay water is certainly polluted and not fit for use. There is a reverse curent from about a block south of the pump house frequently, and this will either retain pollution in the bay or carry it around the outer side to the current. The intake is liable to pollution from this source, or at least from Point Edward, a mile or two above. An average of 3,000,000 gallons per day is pumped and should be taken from the lake above Point Edward. This is admitted as the proper source of supply and should be resorted to as soon as possible.

REPORT RE TYPHOID FEVER AT SARNIA.

To the Chairman and Members, Provincial Board of Health, Ontario.

Gentlemen,—A severe epidemic of typhoid fever having developed in Sarnia during the months of November and December, inst., your Secretary on Sunday, December 17th, being in Sarnia, telephoned me to come on at once and investigate the cause. I arrived there late the same night, and next morning proceeded in a systematic manner to secure all information possible. As the cases had not been reported to the M.H.O. or Secretary of the Local Board of Health, I found it necessary to visit each physician in town (12) to secure a list of cases. From them I

learned there had been about 36 cases during the year prior to November 1st. Since that date I got the names and addresses of 114, and of these 24 were then in the Sarnia General Hospital. The deaths for the year to December 23rd num- in the Sarnia General Hospital.

TYPHOID FEVER CASES IN SARNIA, 1911, AS REPORTED BY PHYSICIANS.

	Jan. 1st to Nov. 1st	Nov. 1st to Dec. 22nd
Dr. Bell	4	20
" Bentley	1	8
" Bradley	2	9
" Hayes	7	12
" Henderson	1	8
" James	5	6
" Logie	8	9
" McDonald	4	14
" Merrison	1	14
" Poussette	2	2
" Whittaker	1	2
" Wilkinson	0	10
Totals	36	114

The deaths for the year to December 23rd numbered 14. A personal history of each case since November 1st was now sought. I took the hospital cases myself, while three assistants furnished me by the local Board visited the cases remaining at their homes. In all we secured 98. Approximate dates of development I found impossible to obtain, but the cases had developed very rapidly since 1st December.

The following statistics regarding these cases may prove interesting, showing the sexes, ages, etc., from which certain deductions may be drawn.

Males.	Females.	Total.
61	37	98

	Males.	Females.	Totals.
Ages—Under 10 years	13	12	25
10—20 "	17	12	29
20—30 "	17	8	25
30—40 "	9	2	11
40—50 "	2	3	5
50—60 "	1	0	1
60—70 "	2	0	2
	61	37	98
Social Status—Married	41	8	49
Single	18	29	47
Not stated	2	0	2
	61	37	98
Nationality—English	52	34	86
Foreign	9	3	12
	61	37	98

The sanitary conditions surrounding many of the houses where cases developed were far from satisfactory. Out-door privies were in use where 43 cases developed and flush closets in 55 cases. Plumbing was very defective in many cases and in several no traps between closets or sinks and cesspools or sewers.

In regard to food conditions we found raw fruits and vegetables were freely used but purchased from many different places. Milk also was obtained from over thirty different sources, and in no instance was typhoid reported in any of these.

In only two instances were cases traceable to any outside source, and even one of these is doubtful. The cases were very evenly distributed over the town, as the accompanying marked map will show. The blue marks indicate cases since November 1st, and red those prior to that date but during the present year. In only 4 cases did a second case occur in the same house, and these not likely contact cases, showing 95 houses infected. This now brings us to the one common possible cause —the water supply.

96 cases out of 98 used water from the civic supply, and 88 used no other. Of the 10 who used water elsewhere, one had a drink in Detroit, one from wells in the country, three from town wells, three being railway employees, drank water at various places along the railway lines; while of the two who had no Sarnia water, one came off a boat and the other from Point Edward, but this latter doubtful re no Sarnia water.

With this analysis of the cases, there seems no shadow of doubt as to the civic water supply being the cause.

Some further statistics regarding typhoid in Sarnia during past years are interesting. These have been obtained from the Hospital and only refer to cases treated therein *from the town* and estimated as being about one-third of the cases which occurred in town.

Year.	Cases.	Year.	Cases.
1896	2	1904	18
1897	8	1905	46
1898	10	1906	41
1899	24	1907	28
1900	58	1908	49
1901	55	1909	45
1902	73	1910	35
1903	40	1911	59

These figures are astounding considering that they only represent about one-third of the cases, and as there is no reason to consider any other cause than the water supply, it is nothing short of criminal to continue its use from its present source. Water from this source has been frequently examined in past years and on various occasions has shown pollution of a dangerous character. These reports I am credibly informed have been suppressed while those of a favorable character were made public to quiet any feeling amongst the citizens that their water supply was not above suspicion.

The civic supply is taken from the St. Clair River, the intake extending out 700 feet from the foot of George Street, near the centre of the town and said to be into the current of the river. Extending north from the intake pipe for several hundred yards is a bay into which much pollution is discharged, and as there is a back current along the shore line, it must sweep out into the river in close proximity to the mouth of the intake. I fear there is also another possible source of pollution. The main town sewer into which has been emptied all untreated excreta from hospital, discharges into the river under the ferry dock only a few yards below where there is admittedly a back current to the bay. In addition to this there is much pollution from the docks at Point Edward where there are rows of privies used by hundreds of employees there, directly over the water. The danger of all this has been known to the authorities in Sarnia, but a by-law to extend the system to Lake Huron and there get a pure supply of water was defeated by the citizens. With a steady wind for a day or two the water in the bay will rise from

6 to 24 inches, and I do believe it possible that at times the bay is polluted from the town sewage.

The water works system was installed in 1876 with the intake pipe out only 180 feet and gradually came into use for domestic purposes. No statistics are available regarding the prevalence of typhoid in that or later years until those given above.

In 1898 the intake was extended 75 feet and diameter increased 8 inches. In 1905 a new intake pipe 36 inches in diameter, the present one, was extended 700 feet into the river. Here, I might remark, that colon bacilli were reported as found that year in the water in the very location into which the pipe was later extended. The old intake was also used more or less for another year or two.

Certainly the citizens, or at least their representatives, in authority, have had fair warning in the past of the danger in using this civic water supply, but without effect, until the present outbreak. An effort is being made to improve the supply temporarily by Chlorination. During my visit, Mr. Henning, an Engineer from Toronto Water Works Department, installed a plant which I believe is now working satisfactorily, but, as it is only a temporary expedient, some change in the source of supply is absolutely necessary if the main cause of typhoid is to be removed. Lives of valuable citizens have been sacrificed through wanton neglect or determination on the part of some persons not to see or believe there was danger where pointed out to them. Even with the evidence I have given in this report and which was laid before the Local Board of Health, there were "doubting Thomases," and some who said it could not be from the water. What is to be done with such persons who, wielding considerable influence in the community, endeavour to lull the just alarm and allow the continued risk to be taken, rather than advocate the expenditure of the necessary sum, not an extravagant one, to reach a supply beyond suspicion?

It is now the bounden duty of the citizens in their own interests as well as in the interest of the general public to at once provide for an abundant and pure supply of water from some other source.

All of which is respectfully submitted.

R. W. Bell, M.D.,
Medical Inspector.

December 30th, 1911.

P.S. At a meeting of the Local Board of Health held on evening of December 22nd, it was suggested that a diver be engaged to examine the whole intake pipe, and this I heartily approved of, although I believed if a break should be found it would only add to the now well proven evil source of supply. Since the above report was written the proposed examination has been made and herewith is a diagram with remarks by the diver, Chas. Margerison, made December 29th and 30th, which show at about 300 feet distant from the shore the complete displacement of one whole length of pipe 30 feet and turned almost at right angles to the intake. About this break much rubbish and filth was found and from here almost the whole supply for probably several months or a year or two has been obtained. A three-inch opening was also found between this point and the shore. The strainer at the outer end was nearly filled with sand and the holes into it nearly closed. By a local diver, another break of several inches was discovered not far from the strainer. When these breaks occurred is not known, but a diver as late as 1907 reported all sound. However, the large number of cases of Typhoid in 1905-06-07, without any other apparent cause than the water goes to indicate that the point of intake is not free from danger.

R. W. Bell.

TABLE OF CASES OF TYPHOID OCCURRING IN CHATHAM HOSPITALS DURING 1909, 1910 AND 1911

ST. JOSEPH'S HOSPITAL, CHATHAM

Number of Typhoid fever patients admitted during the years 1909, 1910 and 1911:

Year 1909	Month	City	County	Other	Total	
"	February	....	1	.....	1	
"	March	3	1	.....	4	
"	June	2	1	.....	3	
"	August	2	3	.....	5	
"	September	1	2	.....	3	
"	October	3	2	.....	5	
"	November	....	1	.....	1	
"	December	....	1	.....	1	
						23
Year 1910—						
"	April	....	2	.....	2	
"	July	....	1	.....	1	
"	August	2	1	.....	3	
"	September	3	....	.....	3	
"	October	2	1	.....	3	
"	November	1	2	.....	3	
						15
Year 1911—						
"	January	1	....	.....	1	
"	February	1	....	.....	1	
"	May	1	....	.....	1	
"	July	1	2	.....	3	
"	August	1	3	1	5	
"	September	1	3	.....	4	
"	October	2	1	.....	3	
"	November	....	2	.....	2	
						20
						15
						23
					Total.....	58

TYPHOID CASES. GENERAL HOSPITAL, CHATHAM, ONT. 1909.

	Months.		City.	Outside points.
1	January		1	
2	"	2		1
3	March	1		1
4	May	1		1
5	July	1		1
6	August		1	
7	"	2		1
8	September			1
9	"		1	
10	"			1
11	"	6		1
12	"			1
13	"			1
14	October			1
15	"		1	
16	"	4	1	
17	"			1
18	November		1	
19	"			1
20	"	4		1
21	"		1	
21			7	14

TYPHOID CASES. GENERAL HOSPITAL, CHATHAM, ONT. 1910.

	Months.		City.	Outside points.
1	February		1	
2	"	2	1	
3	March	1	1	
4	June			1
5	"	2	1	
6	July		1	
7	"			1
8	"	3		1
9	August			1
10	"			1
11	"		1	
12	"	5	1	
13	"			1
14	September		1	
15	"			1
16	"		1	
17	"			1
18	"			1
19	"		1	
20	"		1	
21	"		1	
22	"		1	
23	"	11	1	
24	"		1	
25	October			1
26	"		1	
27	"	4	1	
28	"		1	
29	November			1
30	"		1	
31	"	4	1	
32	"		1	
33	December			1
34	"	2		1
34			21	13

TYPHOID CASES. GENERAL HOSPITAL, CHATHAM, ONT. 1911.

	Months.		City.	Outside points.
1	January	2		1
2	"			1
3	February	1	1	
4	May	1	1	
5	June	1		1
6	July	2	1	
7	"			1
8	August	1		1
9	September	8		1
10	"		1	
11	"			1
12	"		1	
13	"			1
14	"		1	
15	"		1	
16	"			1
17	October	7	1	
18	"			1
19	"		1	
20	"		1	
21	"			1
22	"			1
23	"			1
24	November	3		1
25	"			1
26	"			1
26			10	16

N.B.—A number of cases contracted typhoid while away visiting, but their homes are in the city, so marked them city cases.—L. FAVAZ ?

LIST OF CASES OF TYPHOID TREATED IN SARNIA HOSPITAL.

Year.	Total Cases.	Sarnia Town Cases.	Outside Cases.
1896	2	2	
1897	14	8	6
1898	20	10	10
1899	50	24	26
1900	80	58	22
1901	89	55	34
1902	109	73	36
1903	57	40	17
1904	25	18	7
1905	57	46	11
1906	55	41	14
1907	37	28	9
1908	60	49	11
1909	66	46	20
1910	60	35	25
1911	76	59	17

Statement of Henri Cote, Health Officer of Port Huron, Mich., in respect to Typhoid reported to the State Board of Health.

Jan.	Feb.	Mar.	April.	May.	June.	July.	Aug.	Sept.	Oct.	Nov.	Dec.
1909	.....	.....	2	.....	.....	.....	.....	.....	.....	.....	1
1910	.....	.....	.....	1	1	26	9	7	5	.....	.....
1911 6	1	4	2	.....	1	3	6	1	7	5	4

1909—Deaths none; number of cases 3.
1910—Deaths 2; number of cases 49.
1911—Deaths 2; number of cases 40.

In July 1910 we found a break in our intake.
The cases reported this year I believe due to overzealousness on the part of the physicians whom I urged to report all their cases.

NOTE.—At this date (March 1st, 1912) it is reported that Port Huron has over 60 cases of Typhoid Fever

Table of deaths from Typhoid fever in Sarnia, Chatham, Windsor, and Petrolia, 1900–11 inclusive (from Registrar General's Report)

	Sarnia.	Chatham.	Windsor.	Petrolea.
1900	4	2	8	.....
1901	5	9	5	.....
1902	13	4	5	.....
1903	14	2	4	.....
1904	3	7	8	.....
1905	3	3	6	.....
1906	5	5	6	1
1907	8	5	12	.....
1908	11	5	10	.....
1909	8	7	5	.....
1910	10	4	8	.....
1911	14	4	7	.....
	98	57	84	1

IN THE MATTER OF THE PUBLIC HEALTH ACT, R.S.O., 1897, AND AMENDING ACTS;

AND

IN THE MATTER OF THE CAUSE OF THE TYPHOID EPIDEMIC IN THE TOWN OF SARNIA, IN THE PROVINCE OF ONTARIO.

The following is a copy of the evidence taken before John W. S. McCullough, Esq., M.D., at an investigation into the cause of the Typhoid Epidemic in the Town of Sarnia aforesaid, held at the Town Hall in the Town of Sarnia, Monday and Tuesday, the 29th and 30th days of January, 1911, the said John W. S. McCullough being the Commissioner appointed by the Government of the Province of Ontario for the holding of such investigation.

The Commissioner opened the proceedings, Monday, January 29th, at ten o'clock in the forenoon by reading a statement as to the matters to be investigated, and the authority under which he was acting.

EVIDENCE.

Dr. Robert W. Bell, sworn, examined by The Commissioner:

Q.—You are a duly qualified medical practitioner?

A.—Yes.

Q.—How long have you been engaged in Public Health work?

A.—Seven years.

Q.—What position do you hold at the present time?

A.—I am Medical Inspector for the Provincial Board of Health.

Q.—You are familiar with epidemic diseases, infectious and contagious, typhoid, and other diseases of that nature?

A.—Yes, sir, I am.

Q.—Have you had experience in other epidemics of typhoid fever?

A.—I have—several.

Q.—Any recently?

A.—Yes; a very severe one in Ottawa last spring; one in Cobalt two years age, which was very severe.

Q.—You had something to do with investigating an epidemic in Ottawa during the last year, I understand?

A.—Yes; I spent three weeks in Ottawa in connection with it.

Q.—How many cases did you find there, or how many did you investigate there?

A.—I think there was a record there of something over twelve hundred cases, and we got personal histories of something over nine hundred.

Q.—Do you recollect what the population of Ottawa is?

.A—Somewhere in the neighbourhood of 80,000.

Q.—Turning to Cobalt, do you recollect how many cases were investigated there?

A.—Well, we did not investigate the individual cases, but I had a record from the physicians of 840 cases between the 1st of August, and I think the 17th of October.

Q.—What was the population of Cobalt at that time?

A.—Between 4,000 and 5,000, I think.

Q.—What was proven to be the cause of the epidemic in Ottawa?

A.—The pollution of the water supply.

Q.—Was that absolutely shown?

A.—Absolutely shown, beyond a shadow of doubt.

Q.—What means were taken there to stem the continued onset of those cases?

A.—Well, to begin with, a valve that had been opened in their intake pipe, from which it was found the pollution had come, was closed, and the water was chlorinated.

Q.—Are you familiar with the effect the chlorination of the water had there?

A.—Very shortly after it was started, the epidemic died out very rapidly.

Q.—Were all other causes than the water investigated, in Ottawa?

A.—They were, decidedly.

Q.—You have recently had something to do with the investigation of cases of typhoid fever here; tell us something about that, shortly, because I will put in your written report as evidence.

A.—I came here on the 17th of December, by your instructions, and the following day I communicated with all the physicians in town and asked them for lists of their cases of typhoid since the first of November. Inside of about 24 hours I got lists from them of absolute cases—not suspicious or doubtful cases—but absolute cases of typhoid they had had, to the number of I think about 104, and I started an investigation of those 104 cases at once; I got assistance from the Board of Health here, and sent the assistants out to investigate the cases on similar lines to those adopted in Ottawa—a series of questions, the form of which you have here. I also took the cases in the hospitals, myself, some 23 or 24 of them. I think I had all those returns by about Thursday evening, and I had very complete returns anyway of 98 cases out of the 104 by the end of the week. However, the medical men had furnished me with ten more cases, making 114, up to the 23rd of December, from the 1st of November. Of the 98 cases we investigated, we found that 96 of them were using the civic water supply, and of the other two one was doubtful; but out of the 96 who used the civic water supply there were only eight who admitted they had used any other water; three of those were railway men, who were drinking along the line of railway, three of them had had a drink from wells in town, one at the oil works, one at the freight shed, and one I suppose at his own home; one man had been baling hay out in the country and had had a drink occasionally at farm houses, and there was one that had had a drink in Detroit. But all of the 96 had been using Sarnia water.

We investigated the milk supplies of these people; we asked where they had bought their milk supply.

Q.—You personally saw those milkmen?

A.—I have seen 24 or 25 of them within the last three days. The milk supply came from over thirty different sources; a few of them had their milk supply from their own cows, or cows in their neighbourhoods; about 16 or 17 of them were regular milk vendors, others simply sold a few quarts to their neighbours. As I say, I visited 24 or 25 within the last three days, and every one of these milkmen stated positively that there was no typhoid fever about their houses or premises, nor in the houses of the families of the farmers from whom they purchased milk. In any case there is not one of those milkmen whose name appears on the list of typhoid cases.

Q.—That is, the list as reported by the doctors?

A.—The list as reported by the doctors, the 114 names reported by the doctors, and of those names the name of not one single milkman appears.

Q.—You recognize the list of cases you have reports of from the doctors?

A.—Yes sir.

Q.—Is it correct?

A.—That is the list I got from the doctors; each one of them furnished a list, and I have read all those names over to the medical men. The locations of those 114 names appear upon map which I have placed in your hands.

Q.—In relation to the location of these cases, what have you to say?

A.—They seem to be very equally distributed all over the town.

Q.—This (shows to witness) is the map you recognize?

A.—Yes. That map I had marked and I placed it before each medical man and had each man mark upon the map the location of his cases.

Q.—You would say there was a wide distribution of it over the town?

A.—A very wide distribution.

(Map marked Exhibit 1, lists marked Exhibit 2).

Q.—I show you reports which have been made, one dated June 30th, 1911, and another dated since you made this investigation. Do you recognize this report?

A.—Yes; that first sheet is an extract from my report of last June, the balance of it is my formal report dated 30th December 1911, with a P.S. added a few days later.

(Report marked Exhibit 3).

That roll contains the individual reports of the cases I investigated at the hospital, and the ones returned to me by the assistants furnished by the Board of Health.

(Report of cases, marked Exhibit 4).

I might say in connection with that report from the doctors, that it only contains the names of the cases they had between the 1st of November and say the 22nd of December, but I obtained from them the number of cases they thought they had had during the year 1911 prior to that, which came to about 36 cases.

Q.—That would be in the year altogether 114 and 36?

A.—Yes, 150 cases. That was up to the 23rd of December. There were more, I understand, later than that and before the year expired.

Q.—Do you think that is a high rate of typhoid for any place to have?

A.—It is, most decidedly; a very high rate.

Q.—Would you distinguish it by the name of an epidemic?

A.—Yes, I would.

Q.—What would it mean, if a comparative number of cases occurred in Toronto?

A.—A similar percentage of cases in Toronto, would be looked upon as most alarming.

Q.—Roughly speaking, it would amount to about how many?

A.—Between two thousand and three thousand; I could not just say, off hand.

Q.—If they had one hundred and fifty cases here in a year, with a population of ten thousand, what would that amount to in a city like Toronto, with a population of about 400,000?

A.—6,000 cases.

Q.—What do you think the people of Toronto would say if they had 6,000 cases of typhoid in a year, Dr. Bell?

A.—They certainly would think it was a pretty serious condition of affairs.

Q.—Can you speak anything about the deaths that have occurred here?

A.—During the week before Christmas, the early part of the week, I enquired from the secretary of the Board of Health the number of deaths they had had during the year, and I was informed then that he thought it was 12, but he was not just positive; he thought about 12 had been reported, and two that week, which would make 14.

Q.—I want to ask you about other conditions; you have spoken about the water conditions here; there seems to be some question in the town as to whether other things might not have been the cause of the typhoid. You spoke about the milk, but you are of the opinion that it was not the milk?

A.—I think that investigation would certainly exclude milk.

Q.—Is there anything possible beyond that investigation, which would exclude milk, that you can think of?

A.—I think the present season of the year, the cold season.

Q.—Epidemics are more liable to occur in what season?

A.—Earlier in the fall, and after the hot season.

Q.—Is there anything about this map which would give you any information as to whether it were milk, or otherwise?

A.—I think that distribution of milk over that large area, from so many different milkmen, would certainly go to indicate that the milk had nothing to do with it.

Q.—Take the question of ice cream; can there be anything said about that?

A.—In our investigations, the question was asked of every person whether he had used ice cream or not, and where it had been obtained. There were not very many of them that had used ice cream, that is, within the last month or 6 weeks; very few had used ice cream, but the ice cream had been purchased from a number of different dealers, not in any one place.

Q.—What about vegetables?

A.—A very large number of them had used fruit, apples, celery, lettuce, and so on, but these were purchased from quite a large number of dealers; a number of them who had been using fruits said they had purchased them from farmers direct in the country; there was nothing to indicate that those fruits or vegetables had come from any one store, or even two or three sources.

Q.—What about oysters?

A.—The question was asked in regard to oysters. A few of them had used oysters, but nearly all who had used them said the oysters had been cooked. The oysters had been purchased from various dealers, but whether they had come from the same oyster beds or not, I could not say. But there were so few of them had used raw oysters that I thought we could safely eliminate oysters from the question.

Q.—Having gone into the matter, can you say what in your opinion is the cause of this epidemic?

A.—In my opinion, the water certainly was the cause of it. I have no hesitation in saying so. There is nothing in the investigation that will point to anything else than the water supply.

Q.—I am told that there are some irregular currents in the river from which the supply is taken; do you know anything about that?

A.—Might I just make a remark before we come to that, about another possible cause; another question we looked into was whether it was possible that any of these cases might have arisen from contact, and, of the 98 cases I investigated, I found only four families where a second case had occurred, and I have been informed by at least two of the medical men that the second case had occurred almost at the same date as the first. So it would not be a contact case. But there were only 4 out of the 98, anyway.

In regard to the currents in the river, I was informed when here last June, when I was just casually inquiring as to something about their water intake, that there was a back current in the river down at the pumping-house. One gentleman in connection with the pump-house informed me that he had recognized logs that had been floating up the bay, and which were coming down again, showing that there was a back current. I don't know just where that back current started, or did not know at the time, but since my return in December I have been informed that from Clark's Dock, or below it, there is almost always a back current.

Q.—Did you see anything of it yourself?

A.—Yes, I did. I threw chips into the water myself and saw them floating upwards.

Q.—Then, in addition to having heard this from different parties, you investigated it yourself?

A.—I did, from there; and I have been informed by several people in town that during a high wind the water in the bay is raised anywhere from 6 inches to over two feet.

Q.—But you do not know anything about that yourself?

A.—No.

Q.—The intake at the present time is 700 feet out, it is said; you have seen the reports on the water, have you not?

A.—Yes, quite a number of them.

Q.—What would you say about the position of the intake, or what would you say about the supply of water here?

A.—I think the supply is being taken from a very dangerous source.

Q.—You made some investigation into the sanitary conditions of the Town of Sarnia last June, I understand?

A.—Yes.

Q.—What would you say about that?

A.—There were several conditions found at that time that were far from satisfactory. A copy of my report, I think, was sent to the Board of Health at that time. It was not particularly anything in connection with the water supply I was investigating at that time. It was just the general sanitary conditions. I was looking more particularly into the livery stables and bakeries.

Q.—Would those sanitary conditions have anything to do with the present outbreak?

A.—No; they would not cause typhoid fever.

Q.—How would bad sanitary conditions contribute to cause typhoid?

A.—Simply by lowering the health conditions of the people in the community. They would not cause typhoid in themselves, but by lowering the health conditions of the citizens, they would be in a decidedly better position to contract typhoid.

Q.—If you are taking water from a certain point, as it is being taken here,

and you had contaminated water at certain times of the year, would you consider that a safe water supply?

A.—No.

Q.—What would you consider the only safe water supply for a community like this?

A.—Invariably free and pure from contamination—free at all times.

Q.—Some parties say that people who get typhoid fever do not have to swallow the typhoid organism; what do you say about that?

A.—They certainly have to take the typhoid organisms into the system.

Q.—It is said that typhoid is a septicemic disease: what do you say about that?

A.—No; it is not a septicemic disease.

Q.—And it is said that improper dwellings, exposure to decomposing organic matter, dirty dwellings, unsanitary houses, etc., are among the causes?

A.—Well, foul air is not going to produce typhoid, unless the germs have been absolutely taken into the system.

Q.—Some gentleman suggested to me that eels in the water pipes here might cause typhoid fever; what do you say about that?

A.—I don't think they would cause anything of the kind, unless the eels had typhoid germs in their bodies, and the people who caught the eels ate them; they might get typhoid in that way, but not likely, if the eels were cooked.

Q.—What about the night soil and fertilizing used by market gardeners and greengrocers; would that cause typhoid fever?

A.—No, it would not.

Q.—Would the filthy condition of the paved and unpaved streets cause it?

A.—No, it would not.

Q.—As a matter of fact, even if bad sanitary conditions do not cause it, do you know that typhoid fever occurred in many of the good and up-to-date homes here, where the sanitary conditions would be good?

A.—Yes; I understand that quite a number of the cases were in some of the most sanitary houses in the town.

The Commissioner: If any gentleman present wants to ask Dr. Bell any questions, he has a perfect liberty to do so.

Dr. Amyot: Would it be a coincidence, if all those milk supplies, ice cream supplies, and vegetables obtained from all sources, should be infected; since the cases are so widely spread over the town, would it be a coincidence if these supplies were all affected?

A.—It would certainly be a coincidence if they were all affected.

Dr. Nasmith: How many deaths have occurred during the past year from typhoid?

The Commissioner: Fourteen.

Dr. Nasmith: Fourteen in those two months, or was that for the year?

Dr. Bell: For the year, I understood.

The Commissioner: We had better get that information from Mr. Stewart, the Clerk of the Town.

Mary Oxenham, sworn, examined by the Commissioner.

Q.—You live in Sarnia?

A.—Yes, sir.

Q.—You made a report on the typhoid fever cases which were treated in the town hospital for a number of years past?

A.—Yes.

Will you just look at this list (shows to witness) and tell me if it is a correct list?

A.—I have my own list here with me.

Q.—Compare them, and see whether you can say positively that they are the same?

A.—Yes, they are the same.

Q.—Look at the compilation on the back sheet?

A.—Yes, it is the same.

(Marked Exhibit 5.)

Dr. David S. Bentley, sworn, examined by the Commissioner.

Q.—You are a duly qualified medical practitioner, Dr. Bentley?

A.—Yes.

Q.—How long have you been practising in Sarnia?

A.—About 17 years.

Q.—You are also a member of the Provincial Board of Health of Ontario?

A.—Yes.

Q.—You sent for me to come here some time during December last, did you not?

A.—Yes.

Q.—Why did you send for me?

A.—Employers of labour in the town were complaining very much about so many of their employees being either laid up, or, owing to sickness in their families caused by typhoid, were away from work, and the situation was becoming alarming to a great many other citizens, and I thought, being a member of the Provincial Board of Health, that some step should be taken to make an investigation as to why we had so much typhoid.

Q.—You have handed a list of cases of typhoid fever you had treated during the last year to Dr. Bell, the Medical Inspector?

A.—Yes.

Q.—Can you say how many cases you had during all the year?

A.—I cannot say, offhand, now.

Q.—I have a list you have given, of nine?

A.—That is correct.

Q.—Eight of them were from the 1st of November to the 22nd of December?

A.—Yes.

Q.—There is a list here in your own writing?

A.—Yes.

Q.—Can you say anything about the number of deaths that have occurred during the last year?

A.—No. I have had one death in my own list.

Q.—You have heard evidence given as to the number of cases, some 150 during the past year?

A.—Yes.

Q.—Do you consider that is a large number for a population of this size?

A.—It is very large indeed.

Q.—It is figured out here that if they were given an equivalent number of cases in Toronto, as compared with the population here, it would amount to about 6,000 cases in a year; do you think it would be a large number for a city like Toronto?

A.—It would be an alarming number.

Q.—Can you say anything about the average number of cases that have occurred here during the years you have been in practice?

A.—Except from seeing the report of the number of cases that have been treated in the hospital during the last number of years.

Q.—Take this list of cases in the hospital, starting back in 1896, which has been proven this morning here by Miss Oxenham, who made this list, that of the Sarnia Town cases, not including cases from outside points, but which were treated in the hospital, Sarnia people who lived here, and who took the disease here; starting in 1896, taking the years along, we have—

1896	2
1897	8
1898	10
1899	24
1900	58
1901	55
1902	73
1903	40
1904	18
1905	46
1906	41
1907	28
1908	49
1909	46
1910	35
1911	59

I understand that in 1905 the intake was extended from some 250 feet to a distance of 700 feet: that was done, I suppose, with the object of getting pure water?

A.—Yes.

Q.—In 1905, when the intake was extended, the cases went from 18 in 1904 to 46 in 1905; then in the following years 41, 28, 49, 46, 35, and last year 59; would you be of the opinion from that that the intake had improved matters any—the extensions of the intake?

A.—The contrary would show, from the report.

Q.—Then, what would you say from the number of hospital cases, or, rather, what relationship would they bear to the general cases?

A.—I think the majority of cases of typhoid are treated in the hospital here.

Q.—I am told (I don't know whether it is correct or not) that the number of cases treated in the hospital would represent only about one-third of the total number of cases, that is the actual condition as far as 1911 is concerned?

A.—I suppose that would work out all right, too; as a matter of fact, I think that one-half of my own cases were home this year, at this last outbreak.

Q.—As far as 1911 is concerned, about one-third of them are hospital cases?

A.—Yes.

Q.—Would you say that that would be correct?

A.—That would be nearly correct.

Q.—What is your experience in this recent epidemic, as to cases occurring in the same house; had you a duplication of cases in any house?

A.—I had two cases in one house only. I think that was the only house I had that in.

Q.—What was the relation of them, as to beginning?

A.—They both started on the same day, I think.

Q.—That would eliminate contact?

A.—Yes.

Q.—Do you know when the chlorination of the water was begun—or about when?

A.—I do not remember the date.

Q.—Approximately it was, when?

A.—Along about Christmas time.

Q,—Has there been any change in the occurrence of cases since that?

A.—I have had only one new case since then, myself; I don't know about the rest.

Q.—If it is shown that the water is the cause of the cases decreasing after chlorination was used, what would your opinion be about the value of the chlorination?

A.—Before I answer the question, I might say that this one case I have had may not have been infected since chlorination was put in, because he had really been unwell for some time before consulting me, but there is nothing definite about his typhoid condition made out until recently.

Q.—Within how long?

A.—Within the last two weeks.

Q.—Was he sick some length of time?

A.—Yes, he was sick some length of time without consulting me.

Q,—How long?

A.—He had been sick two or three weeks, or feeling poorly; he had a very severe cold, or an attack of bronchitis; it seemed to me from the description he gave me he thought it was an ordinary cold. He was a chap who had never been doctoring at all.

Q.—Now, your opinion as to the value of chlorination?

A.—It appears to me that there has been a great improvement since the chlorinating plant has been put in, so far as cases are concerned. I don't think we have had any new ones recently. I have not had any, anyway. If that is a fact so far as the experience of the other physicians is concerned, as well as mine, it would mean that the water was the cause.

Q.—The number has fallen off?

A.—The number has fallen off.

Q.—What is your opinion about it?

A.—I believe the water is the cause.

Q.—What is your opinion as to the situation of the intake and the source of supply generally?

A.—In regard to where I thought the intake was, my opinion was that we ought to be getting good water, if it was where we thought it was, but we have not been getting water to my mind from the stream at any time during the last number of years.

Q.—Do you see any guarantee of ever getting it from the stream?

A.—No, I do not.

Q.—I have an affidavit from the diver, Mr. Margerison, detailing how, in his

opinion, the break occurred and how long it had existed; he says it has been caused by an anchor from a ship on this river. If that is so, do you think you could ever have a safe intake?

A.—We never could depend upon it.

Q.—Then if you could not depend upon it you would never be safe?

A.—Never.

Q,—What is your opinion, then, about the water supply; how long should it be safe, through the year?

A.—A water supply, if we are getting it from a good source and one which is properly looked after, should always be safe.

Q.—I don't know whether you drink water or not, but, if you do, would you like to have it safe every day in the year?

A.—Yes, I would like to have it safe.

Q.—Are you positive that the cases you reported were cases of typhoid fever?

A.—I did not report any that were not typhoid.

Q.—If it is hinted or insinuated that this is not an epidemic at all, and that cases reported by you as well as by the other doctors were not typhoid fever, what do you say about that?

A.—I say a man who makes such an insinuation does not know what he is talking about.

Q.—What is your opinion about the sanitary conditions of the town?

A.—I don't know, except from reports, in regard to the sanitary conditions of the town.

Q.—You do not know, yourself?

A.—I don't know, myself.

Q.—Will dirty lanes and dirty streets, and dirty back yards, and sewer gas, cause typhoid?

A.—No; not unless the typhoid germs get from that filth into the food or drink. It may or may not be carried by flies into the houses, and then into the food, and in that way cause typhoid.

Q.—But the large number of cases that occurred here did not occur in the summer time?

A.—There are no flies here at this time of the year.

THE COMMISSIONER: Does anyone present wish to ask Dr. Bentley any questions? (No response.)

DR. JOHN AMYOT, sworn, examined by the Commissioner.

Q.—Dr. Amyot, you are a Professor of Hygiene in Toronto University?

A.—Yes.

Q.—You are also a director of the laboratory of the Provincial Board of Health?

A.—Yes, sir.

Q.—How long have you been connected with Board of Health work?

A.—Eleven years.

Q.—You have been connected with Toronto University as a teacher for how long?

A.—Nineteen years.

Q.—You are familiar with water conditions, and familiar with the examination of water; you are a practical man?

A.—Yes.

Q.—You have from time to time made examinations of water from the source of supply here, have you not?

A.—Yes, sir.

Q.—There are certain reports I have here, dating back over a number of years, which I will ask you to identify; will you give us the dates (shows to witness) ?

A.—April 20th, 1905: May 2nd, 1905; September 3rd, 1909; September 13th, 1909; September 23rd, 1910, and a copy dated September 23rd, 1910; July 23rd, 1910; December 22nd, 1911; December 22nd, 1911; December 27th, 1911; January 6th, 1912; January 8th, 1912; January 12th, 1912; January 12th, 1912; January 26th, 1912.

Q.—These are all the examinations you have made of Sarnia water?

A.—Yes, those are all we have a record of.

Q.—Have you ever visited this town before and made any examinations of the waters?

A.—In 1904 the Provincial Medical Health Officers met in Sarnia. That was my first visit to Sarnia. We were here some three days, I think, and during that time I looked over the water front several times, and talked a good deal with the men about the town—their names I cannot recall, but I saw some things on the water front, that convinced me that things were not right.

Q.—What did you see?

A.—As far as I can recollect, perhaps 50 or so feet above the ferry dock, corks, old paper, were floating by on the shore edge; farther up, at the next street above the ferry dock, I saw the same thing, and when I went up to the pumping station afterwards, I was told there by—I have forgotten who he was—that quite frequently they saw the same thing as far up as that, but that particular day I did not see anything floating up that far.

Q.—What would what you observed up there lead you to believe?

A.—I was under the impression at the time that it was sewage, and that it was going up by a back eddy upon the shore line. On enquiry I found afterwards that the sewer actually emptied at the foot of the street, at the ferry dock there, and I considered that a dangerous thing. I did not think that that was something that was constant, but still it looked dangerous, to me, if there was an intake or anything about it, that if there was at any time a wind up the river and particularly impinging on the shore it might be very dangerous, because sewage material would arise very near the surface, and the wind would affect that and carry it up on the shore edge. Some years afterwards (I think it was about three years ago), I was here again on some private business, going through Sarnia, and I was here a few hours and went up to see if the same thing existed. I did not see anything floating near any ferry dock, or for some distance up, but as far as I can recollect from the first street above, and what seemed to be about 250 feet above the ferry dock, as I can recollect it, I saw again floating materials going up north or up towards the upper part—up towards the bay. This morning before breakfast I went out again to see what I could, and all the current was going to the south. I went up about 200 feet, and snow or anything I happened to throw into the water floated down the river, which was contrary to what I had observed at other times.

Q.—What would you infer from what you observed?

A.—I would say it was quite possible that the current is not constant, but that it occurs at certain times, and I would imagine that when the wind blew in

the way I indicated before, up the river and towards this sewer, a dangerous condition exists as far as the city is concerned, because it is too close to the ferry dock; and the closer to the sewer the intake is, the more dangerous it would be, as far as that back water was concerned.

Q.—Would that make any variation in the water examinations?

A.—Very much. Our experience with water examinations is that an occasional specimen now and then found to be non-infected is of very little value; it is only when a continued number of specimens are examined and we find them all free that it indicates the purity of the water, where it has to be continued for a length of time. I mean by that that a week's examination of half a dozen specimens every day would not be sufficient to say that the water is pure water. The fear is of whatever happens during the year by which it becomes infected.

Q.—If it happens at any time it is a dangerous water?

A.—It is.

Q.—I have a report dated April 20th, 1905, of waters received from Mr. Johnson, of Sarnia. The number is 979, and was taken one thousand feet from the dock, opposite George Street. There is a heading "per cubic centimeter," and under "Colon Bacilli," you have a plus sign: explain that.

A.—It means that Colon Bacilli were present.

Q.—What is the significance of that?

A.—The colon bacillus is an organism that is found habitually in the intestines of man, and of all warm-blooded animals: all mammals, of course that would mean dogs, cats, horses, cattle, and man along with them: all of those could supply these particular organisms, and it simply indicates intestinal contents. These organisms do not live very long, in natural waters, and when they are found they indicate rather recent, perhaps two or three weeks at most, pollution with intestinal contents.

Q.—Pollution with intestinal material, or excreta may mean, what? Or what are the chances?

A.—Coming from animals, there are certain diseases that might arise, such as diarrhœal diseases common to man or to mammals, and if anyone drunk water containing animal pollution, they might run a risk of developing diarrhœal diseases.

But typhoid is not a disease of animals. It is not known at any rate that typhoid is transmitted from animals through their intestinal contents: but the human being is the subject of typhoid, and if there are any typhoid cases around or cases that have been carriers, that have had typhoid, and still carry the bacteria of typhoid fever, these might add their organisms to the sewage. A recent investigation shows that there are very many more of these carriers than we had heretofore thought. Now, where human sewage gets into a water supply, there is always a risk that these organisms, the typhoid organisms, are present in that sewage. There have been cases recorded where human sewage has not been the source of typhoid fever: but usually human sewage from a city, or from any town of considerable size, is the source of typhoid: anybody drinking water with that sort of sewage in it runs a risk of developing typhoid; and cities and towns that run the risk of drinking human sewage run a risk of having typhoid, and the larger the quantity the greater the risk, and the more frequently of course, the greater the risk.

Q.—Then what would you say of water showing colon bacilli, and showing evidence of contamination by human sewage: what would you say about that?

A.—It is a dangerous water.

Q.—What do you say about a water you report on here as having colon bacilli?

A.—I would think that that was affected with intestinal contents.

Q.—Is it dangerous?

A.—There is considerable risk from drinking that sort of water.

Q.—At 500 feet, it shows a clean sheet, but at 700 feet it shows colonoid bacilli?

A.—By colonoid bacilli I mean an organism that answers a number of tests for colon bacillus, but they are looked upon now as practically of intestinal organism, but there may be some related organisms not bacilli colonoid. When I say bacilli colonoid, I mean an organism that resembles it very closely, but for all practical purposes we would consider it colon.

Q.—Would you say it was an unsafe water?

A.—I would say it was an unsafe water.

Q.—Then there is a report on water from Lake Huron, No. 1,136, dated May 2nd, 1905, which is clear as regards bacteria, and shows two parts of chlorine per million parts of water; what would you say about that?

A.—I think that is normal, for Lake Huron.

Q.—And there is another showing the same character, with three parts of chlorin in a million parts of water, at a depth of twelve feet?

A.—From the same source.

Q.—At 150 feet out it was 20 feet deep?

A.—I would not lay too much stress on one point, the difference between 2 and 3 in the chlorine; it would not amount to anything, not parts of a million, in that way.

Q.—Then samples examined on September 3rd, 1909, sample sent by Dr. Pousette, the Medical Health Officer; No. 4,541 shows colon bacilli, and 8 parts of chlorine to a million parts of water; what do you say about that?

A.—Of course, that is an infected specimen.

Q.—No. 4,542 shows colon bacilli, and 20 parts of chlorine?

A.—I don't know how you could account for that. Of course, it is an infected specimen of water; when we get as high as 20 we could not judge it in the same way as we can with 2 or 3. There could not possibly enter any error in the analysis there, and as usual in the laboratory when we find any high amount like that they are duplicated; with that amount of chlorine I would say that probably we had struck one of those streams of sewage I had observed.

Q.—You would not like to drink it, anyway?

A.—I would not.

No. 4,543 shows colon bacilli and 8 parts chlorine; would that be a safe water?

A.—Does it show colon bacilli?

Q.—Yes?

A.—And 8 parts of chlorine; perhaps not so much sewage; but there you would not lay so much stress on the 8 parts of chlorine, though it would make one suspicious of it.

Q.—No. 4544 shows colon bacilli, with 6 parts of chlorine; would that be a safe water?

A.—No.

Q.—You either do these analyses personally yourself, I understand, or you supervise them, so that you can say that they are correct?

A.—All those so far I did myself; the later ones I have supervised.

Q.—The work has grown so that you could not do it yourself, but you are responsible for it, and are able to vouch for the accuracy of the work?

A.—Yes.

Q.—On the 27th of December last you examined specimens sent by Dr. Bell, Medical Inspector of the Board of Health of the Province on the 22nd day of December; one of these, No. 9563, was taken from the foot of Exmouth Street, and shows colon bacilli and 7 parts of chlorine; is that safe, or not?

A.—Not safe.

Q.—No. 5965, taken from the upper end of the ferry dock, shows colon bacilli and 5 parts of chlorine to a million parts of water; what do you say about that?

A.—Not safe.

Q.—Then specimens taken from the Town Hall, the Police Station tap, showing colon bacilli and 5 parts of chlorine?

A.—Not safe.

Q.—The tap at the Vendome Hotel shows clear, and 5 parts of chlorine in the million; what you say about all those is that they are unsafe?

A.—All but the sample from the Vendome Hotel tap. It is quite possible, and it is our experience, that generally you may get a sample infected now, and in fifteen minutes you will get one non-infected.

Q.—How would you explain that if we go to the intake, or some place in the supply, and take a sample of it and it is found all right, the next day, when you take a sample at the same point, it is found to be impure?

A.—That sample taken at the intake would not be necessarily a sample of what you would get the next day, and the same thing might happen that in fifteen minutes the infected water would go into the pipe.

Q.—The infected water then is irregular?

A.—It is very irregular.

Q.—Here is a report, No. 9530, dated December 22nd, which shows no bacteria, no colon bacilli, and but six parts of chlorine; that would be an example, I suppose, where a good sample happened to be caught?

A.—Yes; the chlorine is a little bit high, that's all.

Q.—The chlorine is a little bit high there?

A.—Yes.

Q.—While we are speaking of chlorine, will you explain the significance of chlorine in water; it is asked, you know, what is the use of putting chlorine in water when there is too much chlorine in it already, in order to purify it; explain the difference?

A.—We rarely find natural water without some chlorine present in it. The chlorine estimated in the laboratory is the combined chlorine in the shape of common salt, sodium chloride or magnesium chloride; it is combined chlorine with those present in the soil, and as the water runs over the soil it gathers up a certain amount of that; in some sections there is a higher amount of it in the soil, and in other sections very little. In our Great Lakes, starting with Lake Superior, we start with less than 1; in Lake Huron 2 or 3, and as we get down in the lakes it rises as high as 8; in the lower parts of Ontario, down near the lake shores, the natural waters have about 8 of chlorine. In this county, and the counties immediately in this direction, they run as high as 25 and to 40 in ordinary wells; a well 25 or 30 feet deep, take that as the normal of the well, and the normal of that particular water, and you will find each water has its own particular normal; if you go deep enough down you will get anything up to 25 parts of chlorine, until

you get a pure salt; it is the salt in the soil, and the soil depends upon its formation, and will vary in the amount of salt it contains. So that we always have to judge of the standard of the water in that way, and each I think has its own standard. If it gets above that standard it means that the salt or chlorine of some kind has got into it, and the usual source of chlorine is sewage, the washings from the houses, the chlorine excreted by the human being and by animals. They take it in with their food. The urine, for instance, contains a very large quantity of salt, and if it is added to the soil it has an opportunity to get into the well, and we find an increase in the quantity of salt, and can exclude salt pockets in the ground, and can come to the conclusion that it comes from sewage. In the river out here it usually means sewage, because the normal is practically constant; it may vary a little bit, one or two points in a million, not very much, and when you double that you commence to look for the source of it, to see whether your method is right or not, and a very small quantity of sewage would give rise to double the quantity of chlorine.

Q.—Is that chlorine of any value in improving the quality of the water?

A.—No. The bacteria grow in the ocean with very little difficulty. The chlorine used in disinfecting, or sterilizing water, is a different chlorine altogether; it is free chlorine, absolutely free and uncombined, and that is the only one of value to destroy bacteria.

Q.—How is it mostly used—in what form?

A.—It is got from the hypochlorite of calcium, a by-product from soda works, and they mix it with water so as to extract the chlorine from it, and the lime falls back out of the solution, and the water above contains chlorine, and that is added to the water in the quantity required.

Q.—Does it harden the water?

A.—Well, for instance, we will say the water here has 100 parts of hardness in a million, and you add one part of lime to a million, supposing it all went into solution it would add one part to the 100. It would mean that the hardness would be 101. You could not possibly perceive it. The ordinary well water could easily run that. At Preston, Ontario, the water has 600 parts of hardness, and at Berlin the water has about 225 parts of hardness, so one part added to 100 would not be perceptible.

Q.—It would have no significance at all?

A.—It would have no significance at all, so far as hardness is concerned; but as a rule lime is left behind in the solution and never gets into it.

Q.—It has no effect upon the hardness at all?

A.—It has no effect upon the hardness at all.

Q.—What effect would the ordinary chlorination of water have upon one's health, or upon plants, or bathing, or anything at all for which it is used?

A.—The quantity of chlorine that is added is .3 parts in a million. That would be practically one-third of a pound in a million pounds of water. That would mean one pound of chlorine in a million gallons of water. A gallon of water weighs say 10 pounds. Figured out, that would mean about one pound in a million gallons of water.

Q.—It is infinitesimally small?

A.—It is infinitesimally small; no one would have ever figured out that it would do the work it does. It is found practically that it does the work, but it could never have been figured out; but like many chemical reactions it is plain after being figured out.

Q.—You say so small a proportion of chlorine in the water does no injury to one's health?

A.—I could not imagine that that would cause any difference medicinally; several grains would be given in one dose, and there you would have one grain figured out in perhaps 40 gallons of water—that is, a grain in a barrel; one would not be likely to get anything like a medicinal dose in drinking it.

Q.—Then a medicinal dose would not hurt, if a man could get it?

A.—No.

Q.—Then the people here may feel perfectly secure that whatever chlorine is put into the water would not infect it?

A.—Provided it is put in regularly, and in the quantity required, and not above that, it would do no harm at all.

Q.—The chlorination was begun here, I understand, in the last days of December; do you notice any difference in the character of the water, examining it before and after; for instance, in specimen No. 9563, December 22nd, is shown 560 bacteria with colon bacilli?

A.—That is at the foot of Exmouth Street. It shows 560 bacteria. That is a high count for water of this character.

Q.—Here is the most recent one you took, dated January 26th, 1912, but taken from the intake, No. 10014, where there are no bacteria, marked "sterile"?

A.—Yes.

Q.—What would you infer from that, that is, before and after using the chlorine?

A.—All of these samples after the chlorine has been used; I don't know that I have ever examined a specimen of water that did not show some bacteria in it, and this shows them all the way out.

Q.—Going back to the 12th of January, here is a list where the numbers of bacteria are 10, 64, 75, 15, 13, and "sterile"; the numbers are:

9849	10
9850	64
9851	75
9852	15
9862	13
9863	Sterile

What would you say about that?

A.—These are all town tap waters, and comparing them with the water taken at various points of the bay, or at least out in the river, they are extremely low counts.

Q.—What would that indicate?

A.—That would indicate the effect of the chlorine. I might say that chlorine does not always absolutely sterilize the water, but it brings the count down very low. Taking the count by the former examinations at any rate, it brought it down to a reasonable number.

Q.—What would you say, comparing it with the list of December 22nd?

A.—There is a great reduction in the number.

Q.—Would you say an improvement?

A.—Decidedly.

Q.—And the same with the list of January 12th?

A.—Yes.

Q.—Would you say that that is an improvement?

A.—Yes, that is an improvement also.

Q.—Here is a list dated January 8th, 1912, earlier in the time, water taken from a town tap, number 9734, 150 bacteria; 9735, 200 bacteria; that was shortly after the chlorination had been established?

A.—That might be the regular chlorination; the chlorine is high in the first sample, and perhaps a little in the second, as 7 and 5 would indicate that probably the water had pollution, and that this low count would show a considerable improvement.

Q.—Altogether, then, would you say from your examinations of the water before and after that chlorination has had a good effect?

A.—Yes, it has had a good effect.

Q.—You have heard something about the list of cases that occurred in November and December, and you heard Dr. Bentley's evidence as to the diminishing of cases since the chlorination; what effect would you say chlorination has had; what has chlorination had to do with it?

A.—I think we are justified, when we look at what has happened in other places, in coming to the conclusion that the chlorine is probably responsible for that reduction. The conditions may have changed; the infection may have been an explosive one, some condition just arising at that time giving rise to the typhoid here, and the condition may not exist, but from the regularity with which typhoid has existed in this town I would say that the conditions are more or less uniform, and I think there is no doubt that, looking over the reports of the last few years, water is the main element in the typhoid of Sarnia.

Q.—Would you say that this map has any special significance?

A.—Very much. I think it would be very difficult to find any other cause than water as giving that amount of typhoid and distributing it so uniformly over the town.

Q.—You agree then entirely with what Dr. Bell has said about it?

A.—I don't think we can get away from that evidence at all.

Q.—Then, considering that the intake has been broken at some time during the period of its history there, what do you say about the safety of having an intake in that river?

A.—From what I saw of the currents (and I am not making any allowance for that current going up the shore and then coming down the edge) I would say that the closer you are to the shore the more dangerous; if we consider that that water is likely to come back and flow out again a second time over the route, it would seem to indicate that there is a circling round, and that if the sewage goes up it would come back too, and if you ran an intake out you might strike into that line. As far as the town is concerned, the closer to the shore the more the intake difficulties would be. Even if you put it out in the current, with the pollution on the boats coming down I do not believe it would be safe there at all times, by any means.

Q.—And so it is not safe water?

A.—It is not safe water.

Q.—What is your opinion, considering that the intake has been broken and remained broken; for instance, I have the affidavit of the diver, and a sketch of the broken intake. (Reads affidavit.) In view of what the diver says, do you think you could be absolutely sure of the intake, in that situation, at any time?

A.—From his sketch, the uneven bottom would be a danger, to commence with,

and the next difficulty is that shipping going up and down, tying in at the dock, there is always danger of it being torn off. That has been the experience of other places. It happened at Fort William, and one of the big outbreaks we had in Toronto was due to an anchor fouling with and pulling the pipe up, and a small boat broke it at Hamilton. It happens so frequently that where there is that chance the pipes should be protected. I think there would be great difficulty in protecting such a pipe here. Of course that is an engineering question, but I think there would be difficulty with the pipe here regularly.

Q.—Here he says it had been going on for two years; they would never know that they were safe?

A.—Never in the world.

(Affidavit of C. Margerison, marked Exhibit 6.)

Q.—Then you are satisfied that the water is the cause, here?

A.—Yes.

Q.—And that the other things mentioned, namely, milk, vegetables, fruit, ice cream, etc., are not the cause of this outbreak?

A.—It would be a great coincidence if all of those could be affected at the same time.

Q.—Would you call it an epidemic?

A.—Decidedly.

Q.—You agree with what has been said in regard to the comparative population, as compared with that of Toronto and other places?

A.—Yes.

Q.—Do you know what the effect of chlorination has been in other places, upon polluted water?

A.—Nearly all the evidence has been to a reduction in typhoid.

Q.—What has been your experience in Toronto; you know a good deal about that, I understand?

A.—Well, in Toronto a few years ago a break took place in the pipe, and water from the pipe was used, and the deaths from typhoid were the highest in the history of the city. A little over a year ago the intake was broken, and they had to resort to the lagoon for water—which is practically the bay—and on that account just such an outbreak as took place before was due the City of Toronto.

Q.—They would have had that?

A.—They would have had it.

Q.—Unless what?

A.—It was next to impossible to escape it; but they chlorinated the water right from the beginning of that supply—I could not say right at the beginning—it was irregularly done at the beginning; there was some difficulty in getting it installed, and typhoid commenced; there was quite an outbreak for a little time, but after that, the chlorine got at its work properly and it was properly applied, and the typhoid fell, and since that time typhoid in Toronto has really been less than it was in former years when the water was taken out at the intake and was infected there.

Q.—The same thing is true in respect to Ottawa?

A.—Yes. The dropping of typhoid was very marked after the chlorination of the water. At Cleveland it was the same—less typhoid than they had had in years, after they had applied it.

Q.—I think it would be admitted here that there were 14 deaths from typhoid at least; is that a high rate?

A.—Yes; 14 deaths to a population of say 10,000 would mean a death rate of 140 per 100,000 for a year; 140 per 100,000 would be a terrific death rate.

Q.—I may tell you that the general death rate for Ontario is 14.6.

A.—Per 100,000?

Q.—Yes.

A.—Well, there would be 10 times that in a town like this—which is too high.

Q.—You think there is no doubt from what you have heard that these cases were typhoid fever?

A.—Not from what I have heard.

Q.—Would you be inclined to take the opinions of the medical men as to that?

A.—They are the men who saw the cases, and they are trained medical men, who ought to know their business.

Q.—Would you think it was some serious disease, when it killed 14 people?

A.—Yes, decidedly; 10 per cent. is a pretty good mortality, or a high mortality.

Q.—What would you say about unsanitary conditions causing typhoid fever, Dr. Amyot—say filthy streets?

A.—Unless supposing that typhoid fever could get out on the street, ordinary filth cannot cause typhoid.

Q.—I don't think it is insinuated that excreta is put out on the streets, but just referring to the streets and back yards being dirty, the typhoid is attributed by some parties here to those streets and back yards?

A.—Of themselves they could not cause typhoid. If they had typhoid cases in the house, and they threw out typhoid material at the back, it would be dangerous. But dirt itself cannot give rise to typhoid.

Q.—What about the manholes over the sewer, where the filth from the streets goes after they are cleaned?

A.—That is, the material washed down the streets into the catch basins. Most of it has undergone putrefacation to such an extent that there would not be typhoid bacteria there.

Q.—You do not think sewer gas would cause it?

A.—No, sir.

Q.—Improper dwellings, exposure to decomposing organic matter, excess in eating, foul air—would you consider those causes of typhoid fever?

A.—Simply contributing.

Q.—Is it stated by medical authorities that typhoid causes infection in any other way than by being taken into one's body?

A.—No.

Q.—Then it is said, too, that people as a rule laugh at the chlorination process, and say it is all nonsense; with your experience and knowledge what would you say as a final word?

A.—It is the most efficient emergency method we have of treating water.

Q.—Would you think that the Board of Health here, or whoever established chlorination, did a wise thing?

A.—Decidedly.

THE COMMISSIONER.—If any one wishes to ask Dr. Amyot any questions, he will be glad to answer them.

Mr. Edward M. Ross. Q.—Did I understand you to say that one pound of chlorine to a million gallons was a proper quantity?

A.—Chlorine itself, the quantity that has been recommended, at least for Sarnia, has been .3 parts per million, that is, decimal three pounds per million pounds.

Q.—Will you put that into pounds per million gallons?

A.—There are 10 pounds in a gallon. .3 pounds per million pounds would be 3 pounds of chlorine for a million gallons.

Q.—Would a larger quantity than that be an injury to the health of the people who drank the water?

A.—Treble that would not hurt any one.

Q.—But any greater quantity than that might be injurious?

A.—I don't know that it would be injurious. Of course you would taste a greater quantity, so that you would not want to drink it; you might not like it, but I don't think it would do you any harm.

Q.—One other question; you gave an expression of opinion as to the safety of the intake, from a shipping standpoint; have you had any experience as a mariner?

A.—No.

Q.—Are there any mariners summoned to this investigation?

A.—Dr. McCullough will say.

The Commissioner: Yes, there are men who are familiar with the whole condition and situation.

Mr. Ross: But are there any mariners?

The Commissioner: We will have the harbor master here.

Mr. Ross: But a man familiar with the operation of steamships?

The Commissioner: Would the man who runs the ferry have any knowledge of it?

Mr. Ross: He would not have any very extended knowledge operating merely a river boat. He might have a very limited knowledge. I would like to have the opinion of a man operating on the larger vessels on our waters.

The Commissioner: It could not be expected that I would be familiar with every one who could give evidence. If you will give me the name of any person you think would be familiar with these matters I will subpoena him.

Mr. Ross: There is Captain Foote, of the Northern Navigation Co., Captain Robertson and Captain Lee. These men are all experienced in handling large steamers.

The Commissioner: Will you undertake to get some of these men to come here?

Mr. Ross: I have no authority to subpoena these men here, sir.

The Commissioner: But you might ask them to come: we have not subpoenaed everybody who is coming here as a witness; we subpoenaed witnesses who would not come without it. I issued a general invitation by advertisement in the newspaper, and made the statement here this morning that anybody with any evidence to give could give it.

Mr. Ross: I was not one who refused to attend. My idea in asking is, that leading questions have been asked the witnesses, and I think we should have the benefit of the evidence of men experienced in operation and acquainted with the handling of steamships.

The Commissioner: Undoubtedly, and if you are desirous of that, you ought to get them here.

Mr. Ross: But I have no authority. I am not on the Board of Enquiry; I am merely here as a witness. There is one man here, an engineer on a large boat, and a man with great experience. I refer to Mr. Brown.

Mr. George Brown: I have been subpoenaed, to give evidence.

Mr. Ross: If I requested you, would you issue subpoenas to, say, Captain Foote, Captain Robertson and Captain Lee?

The Commissioner: Very good.

Mr. Brown: Captain Foote will come, if he is telephoned to.

The Commissioner: Telephone him, and ask him if he will come.

Mr. Ross: Then there is Captain Reid, who runs the tug, and employs divers; I don't know that he is a diver himself.

The Commissioner: We will ask him to come. Are those all?

Mr. Ross: And Captain Robertson, who is a citizen of the town.

(Dr. Amyot's report was marked Exhibit 7.)

Dr. George C. Nasmith, sworn, examined by the Commissioner.

Q.—You are a Professor in Toronto University?

A.—Yes.

Q.—And a Doctor of Philosophy?

A.—Yes.

Q.—How long has your experience been in work connected with water, and infectious diseases?

A.—Ten years.

Q.—What position are you now in?

A.—Director of the Health Laboratory in Toronto.

Q.—For the City?

A.—Yes.

Q.—You were formerly in what position?

A.—Chemist of the Provincial Board of Health of Ontario.

Q.—And in that position had you a good deal to do with the examination of water?

A.—Yes.

Q.—Will you look at these reports and see if you can identify them as your work. (Shown to witness, identified, and marked as Exhibit 8.)

The Commissioner: I will call Dr. McLean, who wishes to get away.

Archibald McLean, sworn, examined by the Commissioner.

Q.—I understand you were a practitioner here for some time, years ago?

A.—I was a practitioner here from May 1st, 1867, to March 31st, 1892, with the exception of 11 months in 1872.

Q.—Have you any recollection about typhoid cases during your years of practice here?

A.—During the 24 years I practised in Sarnia I saw occasional cases of typhoid fever, in different years, and two severe outbursts of the disease, the first in the autumn and fall of 1879, the second in the early spring of 1882, and the third outburst, less extensive than either the first or second, in December, 1887.

In the autumn of 1879 I treated typical cases of typhoid fever in not less than 25 families. The names of those treated are in my visiting list for that year. On the 19th of April, 1882, I had 13 well marked cases under treatment, some of the cases mild, some severe and prolonged.

The outburst in December, 1887, was, as I have stated, not so extensive as those in 1879 and 1882. The cause of each outburst I had no doubt at the time, and have no doubt now, was polluted drinking water supplied from the town waterworks.

Q.—What is your opinion about the water supply at the present time, Dr. McLean?

A.—My opinion is similiar to the opinions that have been given in evidence that I have heard.

Q.—Did you ever hear about reports showing that the water was bad here being suppressed by the town authorities?

A.—No, I cannot say that I have.

Q.—Then you do not believe that the general sanitary conditions I asked Dr. Amyot about and Dr. Bell about, would cause typhoid fever, in the light of your knowledge?

A.—Nothing in my opinion that could cause that.

Q.—You are Chairman of the Hospital Trust?

A.—I am.

Q.—Do you know whether there has been anything done to sterilize the excreta of typhoid patients?

A.—Yes, there has been, but not so thoroughly as at present, since Dr. Bell called attention to it.

Q.—You have some interest in medicine still, though not practising?

A.—Oh, yes.

Q.—Do you consider this a large number of cases we have had; it is said we have had 150 cases during the last year?

A.—It is, undoubtedly, very large.

Q.—Would you consider it in the nature of an epidemic?

A.—Yes.

Q.—And I suppose you are satisfied that the number of cases as given by the medical men to-day is correct?

A.—I have no reason whatever to doubt it.

Q.—Anyway, you are satisfied that this in an epidemic of typhoid fever similar to what you had witnessed?

A.—Yes.

Q.—What do you say about the death rate?

A.—The death rate is high; perhaps not so very high, considering the number of cases, but certainly it shows a very severe type of the disease.

Q.—14 in 150 among 10,000 people would be 140 per 100,000, which I believe is a very high rate?

A.—Yes, the death rate seems to be high, considering the well-known skill with which typhoid is treated, and it indicates a very severe type—a very virulent type—of the disease.

Q.—What do you think about the source the water is being taken from?

A.—All right, unless any pollution can be taken in at the intake.

Q.—There is not any room for a purification plant at the waterworks—a filtration plant?

A.—Not at the present site.

Q.—Do you think the waterworks is in a good situation, I mean as regards protection from fire?

A.—I don't think so, and never did.

Q.—I am told that years ago there was a great fire here and that the waterworks were only saved by the greatest exertions?

A.—That is a fact, I believe.

Q.—There would be danger, if a large fire broke out?

A.—Yes, undoubtedly.

Q.—You think it is of importance that it should be well protected and safe from fire, and the water supply safe?

A.—And the pumping apparatus must be safe from fire, accidental or otherwise, and the intake or supply should come from a pure source, no matter where it is, or how far distant.

Q.—I suppose you have observed here since the water has been chlorinated that the cases are diminishing in number?

A.—I understand so. It occurred to me that along with chlorinating, the boiling of the water was probably operating to some extent.

Q.—That of course has been recommended?

A.—That has been recommended.

Q.—If there were 50 cases in the hospital being treated, what in our experience would be the proportion generally in the town?

A.—There would still be a very large number in private houses, I think.

Q.—It has been suggested to me that the hospital cases might represent about one-third?

A.—That might be correct, I am not prepared to say.

Q.—What is the accommodation at the hospital here?

A.—About 50 patients.

Q.—And when the hospital was filled up, the other patients could not get in?

A.—They could not get in.

Q.—The hospital here is popular?

A.—Yes.

George G. Nasmith, recalled, examined by the Commissioner.

Q.—I simply want the reports proved as a matter of record; do you agree with the evidence Dr. Amyot has given?

A.—Yes.

Q.—You heard it all?

A.—Yes.

Q.—You agree with his explanation with reference to chlorine?

A.—Yes.

Q.—And in fact with all his evidence?

A.—Yes.

Q.—I want to ask you what you think about chlorine put in hurting the water?

A.—It would have absolutely no effect upon the quantity used.

Q.—What effect has it upon plants; any ill effect?

A.—Some experiments were carried out down at Ottawa with a view to determining that very point, by the Official Chemist of the Government, Mr. Shutt, and he found that it had absolutely no effect; except that it might be a stimulant rather than otherwise.

Q.—Good rather than harm?

A.—Yes.

Q.—What effect has it in the ordinary amounts it is used to purify water, in respect of one's health?

A.—As far as the authorities have stated, there is absolutely none. A decision given by one of the American Judges is of particular interest upon this point, because it was embodied in his decision. I have seen the report, and I quote from memory, and he stated that a man would have to drink 40 gallons of water per day for 7,000 years to get a medicinal dose such as is given in typhoid.

Q.—I forgot to ask this of Dr. Amyot: will you explain how hypochlorite of lime or the chlorine therefrom purifies water?

A.—There are two opinions; one is that it is a direct poisoning to bacteria, but the larger proportion think it is due to the oxygen that is liberated. When the chlorine goes into contact with organic matter such as bacteria, it is really a form of oxygen that has an action similar to that of ozone, such as ozone would have—free oxygen.

Q.—You have had some experience with ozone?

A.—Yes.

Q.—Did you conduct an inspection of a so-called ozonizing plant at Lindsay a year or two ago?

A.—Yes.

Q.—What did you find there?

A.—We found that the plant was giving absolutely no results, chiefly due to the fact that the ozone was not going into the water; there was faulty construction.

Q.—If ozone could get into the water, it would have a similar effect as chlorine?

A.—Yes.

Q.—Is it used in preference to chlorine?

A.—It is very much more difficult to apply, in the first place; it is exceedingly expensive.

Q.—Chlorine is very cheap?

A.—It is very cheap.

Q.—In addition to your corroborating Dr. Amyot's evidence, I would like to ask particularly, what do you think of the number of cases that have been certified to here, as to whether they show an epidemic or not?

A.—I figured out, when Dr. Bell was giving his evidence, and comparing the number of cases in Sarnia which he quoted with what it would be in Toronto, or what it would amount to in Toronto with a similar sized epidemic—Dr. Bell stated that there were 114 cases in two months in Sarnia, which would be at the rate of 57 cases for one month, to a population of 10,000; in Toronto, with a population of approximately 400,000, it would amount to 2,280 cases for the month. The highest number of cases we have had this year has been 90, which is only one twenty-fifth the proportionate number they have had in Sarnia.

Q.—With what feelings would the people of Toronto view those 2,280 cases in a month?

A.—There would be a panic.

Q.—So you think this is more than an "alleged epidemic"?

A.—Decidedly, a large epidemic.

Q.—Are you satisfied that it is typhoid fever, upon the evidence you have heard?

A.—Certainly.

Q.—Are you satisfied as to the cause of it?

A.—Yes. There was another thing: the relative number of deaths here as compared with Toronto for the last year, 14 deaths to 10,000, is at the rate of 140 per 100,000, and in Toronto the number in the past year who have died of typhoid fever was 20, so the death-rate here is seven times as great.

Q.—So that is an enormous death-rate?

A.—Yes, it is enormous.

Q.—You would not agree with any parties who say that this is not typhoid fever, and that if it is typhoid fever it is not an epidemic, and if it is an epidemic it is not caused by water; you disagree with all that, you tell me?

A.—Absolutely.

Mr. J. W. Hamilton: There has been evidence given here as to the source of the cause of the disease, and no doubt it is from water; no witness has been asked what the solution is, and where we should go to get water from.

The Commissioner: I do not think that comes within the scope of this enquiry?

Mr. Hamilton: Don't you think it would be well to have it come into the enquiry?

The Commissioner: I doubt whether anybody could speak positively about that, with the information at hand.

Mr. Hamilton: There were some experiments made along that line a few years ago.

The Commissioner: Some few samples were taken, I believe; I don't know that I should go into that. I think what is outlined for me to do is to enquire into the cause or causes.

Mr. Hamilton: A great many of our citizens would say that you have proved beyond a doubt that there is contamination of the water, but what is the solution?

The Commissioner: That is a matter for the town authorities to deal with. If they are satisfied that they are taking water from an improper source, I think they ought to employ expert men who will tell them how to get it. But I don't think it comes within the scope of this enquiry at all, so I have avoided asking questions tending in that direction.

Mr. Hamilton: I would like to ask Dr. Amyot and Dr. Nasmith, who are both practical men and professors, as to the source of chlorine. For instance, we took some samples of water a couple of miles up in the lake, which showed there were 2 parts of chlorine. That was taken as a sample, I understand; and down at the river, according to the reports we get, 20, 25, 8 and 72. Suppose this did not come from sewage, is there any other source that the high rate of chlorine in the water would come from?

Dr. Amyot: One of the samples which we examined showed 14; it was taken below one of the salt works. There is a possibility that that might account for this sample.

Mr. Hamilton: Would it cover decayed vegetation?

Dr. Amyot: No; that sawdust from the lumber mill would not give it. As a rule, swamp waters have very little.

Dr. John F. James, sworn, examined by the Commissioner.

Q.—You are a duly qualified practitioner?.

A.—Yes.

Q.—How long have you been in Sarnia?

A.—Six years.

Q.—You gave a report of cases of typhoid fever to Inspector Bell, do you recollect off-hand how many cases you reported?

A.—I gave him nine, and I have had one since—10 altogether.

Q.—I have a list of 10 here?

A.—Whatever I gave him is correct.

Q.—Is there any doubt about them being typhoid fever?

A.—No, sir.

Q.—You reported nothing else?

A.—I reported nothing else.

Q.—You have heard the evidence as to the number of cases that have occurred here during last year; do you think it is a large number for a place of this population?

A.—I do.

Q.—What do you say is the cause of it?

A.—I have always contended that that water caused it.

Q.—You do not believe the story about the dirty backyards, dirty houses, sewer gas, etc.?

A.—No, not alone.

Q.—Medical authorities disagree with that idea do they?

A.—I think so.

Q.—Is it your idea, that they must get the typhoid germs into their system?

A.—That is my idea.

Q.—Has there been a good deal of typhoid here each year you have been in practice?

A.—As a rule, we have not had very many cases per year.

Q.—I have the hospital list here; I don't know whether you were here this morning when it was proven; it was proven this morning that there have been every year since 1896 more or less typhoid fever cases at the hospital which were Sarnia Town cases?

A.—Yes.

Q.—We have a list of all the cases treated at the hospital, the outside cases being eliminated, and it has been proven here by the lady who took the list of cases from the hospital books that the following numbers have been treated each year; I will give you the numbers:

SARNIA TOWN.

1896	2
1897	8
1898	10
1899	24
1900	58
1901	55
1902	73
1903	40
1904	18
1905	46
1906	41
1907	28

1908 49
1909 46
1910 35
1911 59

Those are hospital cases in Sarnia Town. Would that make a fairly large number, all together?

A.—It would.

Q.—That is more than you would expect?

A.—It is more than I would expect.

Q.—More than you expected, yourself?

A.—Yes.

Q.—But the number of those who died last year, what do you say about that?

A.—It is more that I think it should be, for the Town of Sarnia.

Q.—What do you think of a rate of 140 per 100,000?

A.—Very excessive.

Q.—And if there were 150 cases during last year, would you consider that an epidemic?

A.—I would.

Q.—Have you noticed the cases diminished in number since the chlorination process has been started?

A.—Speaking for myself, I do.

Q.—What would you say as to the situation of the intake, where it is now?

A.—We are taking it from the bay, at the present time; of course I think that is wrong.

Q.—From your experience and knowledge of this intake, does it appear to you that you could ever be certain of its being safe?

A.—No.

Q.—Are the sanitary conditions in this town worse than in any other town?

A.—Not that I know of.

Q.—Anyway, that would not have any bearing on the typhoid question at all?

A.—No.

Q.—It has been proven here this morning—I don't know whether you were here when Dr. Bell gave his evidence?

A.—No, I was not.

Q.—It was proven that a very large number who had typhoid before here, and which were investigated by Dr. Bell, drank town water?

A.—Yes.

Q.—That would corroborate the idea of it being a town source?

A.—That is the way it appears to me.

Dr. A. C. Pousette, sworn, examined by The Commissioner.

Q.—You are one of the oldest practitioners here?

A.—The oldest at the present time.

Q.—You are now, and have been for some years, the Medical Health Officer of the Town?

A.—Yes.

Q.—What was your experience in respect of typhoid, away back in the early years of your practice?

A.—There was not any regular tabulated record kept. The first very bad epidemic of typhoid I remember was in 1879.

Q.—Do you corroborate Dr. McLean's evidence along those lines?

A.—I did not hear his evidence, exactly.

Q.—He said that there was an epidemic in 1879, one in 1882, and one in 1887; is that your recollection?

A.—In 1879 certainly, and there was one either three or four years after, the date of which he has probably put down correctly. I have a memorandum here of 1879, one in 1882, and one in 1888.

Q.—He has it as 1887; that is close enough?

A.—Yes.

Q.—In reference to these samples of water, the reports of which have been shown here to-day, and which you have seen; in almost all cases that have been returned to you, were they taken by yourself, or by someone under your direction?

A.—Many of them by myself, but not the last few; the samples that have been sent down within the last 20 days have been taken by Mr. Acton and my Sanitary Inspector.

Q.—But under your direction?

A.—Under my direction.

Q.—You are satisfied as indicated wher they came from?

A.—Certainly.

Q.—And all of yours where you indicated are correct?

A.—True.

Q.—You never suppressed any reports which came to you?

A.—None.

Q.—Did you ever send reports to any other place; did you ever send reports to a laboratory in the United States?

A.—I never did; there was some sent there but not by me.

Q.—You have in this report given the number of cases you attended during the epidemic—four weeks?

A.—This last one, yes.

Q.—They are correct?

A.—They are correct.

Q.—What do you say about the number; do you think it is a large number for a town like Sarnia?

A.—Yes, decidedly.

Q.—It gives you some anxiety, as a physician?

A.—Yes.

Q.—What do you say about the death-rate; do you say that it is high?

A.—I am not quite aware what the death-rate has been. The returns are made to the Town Clerk.

Q.—I think we may safely say there was 14 deaths?

A.—There have been several cases in my practice.

Q.—If there were 14, you would consider that a large proportion?

A.—For the time, yes. You mean for two or three months?

Q.—I think there were 12 in the two months?

A.—It is a large rate.

Q.—It is a large rate for the year, anyway?

A.—Yes.

Q.—Then you do not agree with the reports going around that it is not typhoid fever?

A.—I do not.

Q.—You are satisfied it is typhoid fever?

A.—Certainly.

Q.—Are you satisfied it is an epidemic?

A.—I think it may be called that.

Q.—What is your opinion upon the source of the water supply, from these reports you have seen, and the discussions you have had about it?

A.—I think that at most times here the water supply is very defective.

Q.—If it was very defective you would not consider it safe?

A.—No. I have always been of the opinion—at least for some time back—that a great deal of the infection of our water came from the bay, from that long pile of lumber running out from the Cleveland mill, almost to the other side of the bay.

Q.—Could the intake be put in any place in that river, so as to avoid infection?

A.—We are not sure that we have ever been getting water from 700 feet out in the river.

Q.—Here is a matter I would like to call attention to; that (shows to witness) is your report made to me about certain questions I sent to you?

A.—Yes.

Q.—In your own handwriting?

A.—Yes.

(Marked Exhibit 9.)

Q.—I understand from your report that the intake was extended in 1905; was it?

A.—Yes, in 1905.

Q.—According to the hospital report, there were 18 Sarnia town cases in 1904, 46 in 1905, and 41 in 1906; the intake was put out with the expectation that it would help the water question?

A.—Certainly.

Q.—According to that, it has not helped?

A.—No. The question is, whether the intake was ever put out there, whether it was ever properly put together, and whether water came through it.

Q.—No doubt it was out there in some shape?

A.—Yes, but there seems to be some doubt whether we ever got water from 700 feet out.

Q.—It looks like it from that report?

A.—It looks like as if we were not getting any purer water than before.

Q.—Then the report goes on, 1907, 28, 49, 46, 35, and 59 last year, in the hospital alone?

A.—Yes.

Q.—In your experience, when you get 50 in the hospital how many would you have generally—of course, it is only an estimate?

A.—If there were 50 in the hospital, I would suggest 80 or 90 altogether.

Q.—But as a matter of fact the hospital cases in the last year were only about one-third?

A.—That is a supposition on the part of some.

Q.—But according to the report we have, I think there were about 150 cases reported for 1911?

A.—In the hospital?

Q.—No, altogether, and of those 59 were in the hospital.

A.—Well, that would be about it. But if we have reports of the whole year of typhoid—

Q.—I think Dr. Bell gave evidence about that; we have in your own report 136 cases since November 1st?

A.—Yes.

Q.—You have seen your report, and you say that according to the registrar's report there were 136 cases since November 1st, 1911?

A.—Yes.

Q.—And then the additional number to make up?

A.—I don't know that we had any very regular reports previous to that. That is where some of the trouble has been.

Q.—Has it appeared to you that the cases are diminishing since the Board of Health took up the plan of chlorination?

A.—As far as my information goes.

Q.—What would you infer from that?

A.—That we are drinking purer water.

Q.—But going farther, what could you say farther than that; what has made it purer?

A.—In the face of the analyses we have received from Toronto, it is very difficult to say.

Q.—You say you are drinking purer water now?

A.—Yes.

Q.—How does that come, in your opinion; why are you getting purer water?

A.—I believe the source of infection of a great deal of our water has been removed by the freezing up of the bay, and all sources of infection we have received from the bay have been stopped by the ice, and that was the reason why in the analyses of the water, where the water was taken from the intake pipe, and the water taken from the taps that had been already chlorinated are equally free from bacteria.

Q.—Do you not give any credit to the chlorination?

A.—Yes, I do; in the early stages of it, I think it did good, most decidedly; latterly I cannot say how much it has been doing: we know it purifies the water, at any rate.

Mr. J. W. Hamilton: Q.—As a Medical Health Officer, there has been nothing said with reference to any special work going on in the bay previous to the time this outbreak took place: would it not be well to see if you know anything about that; it has been reported that there was work going around on the bay that stirred up the waters in a certain section of the bay—dredging, and that sort of work: I don't know what it was as I did not see it?

A.—There is no doubt it was very impure water for a time, before chlorination took place.

The Commissioner: Q.—You are satisfied that that was the cause of the typhoid?

A.—Certainly.

Q.—I see in your report to the Provincial Board of Health in 1909, Dr. Pousette, you say that in the early months there were some cases of scarlet fever and diphtheria, and later on typhoid fever was very prevalent: that was in the fall of 1909; certain parties have said there was no typhoid fever in 1909, but your report disproves that, and shows that there was typhoid fever in 1909, and a severe outbreak, doesn't it?

A.—I only had, as far as I can recollect, one case in 1909.

Q.—But here is your report for 1909 (shows to witness) read it yourself?

A.—"In the early months there were some cases of scarlet fever and diphtheria, and later on typhoid fever was very prevalent." But it was not only the beginning of November that we had an extremely severe outbreak of scarlet fever and diphtheria.

Q.—That report then is correct?

A.—Yes.

(Marked Exhibit 10.)

Alderman E. C. Lawrence: Regarding the reports that have been given, have you tried to satisfactorily explain the conditions of the water?

The Commissioner: Do you mean, were previous enquiries made?

Mr. Lawrence: Yes, to the Medical Health Officer of the town.

The Commissioner: Have you anything to say about that?

Mr. Lawrence: The doctor's point is well taken, regarding the conditions that would lessen the prevalence of typhoid the last few months, because the river has been covered with ice, and probably those currents Dr. Bell referred to have been stopped by the wind not getting a sweep at the water.

The Commissioner: Ask Dr. Pousette that question.

Mr. Lawrence: Q.—I understand there were some enquiries made as to the condition of the water supply that you were not able satisfactorily to answer?

A.—When?

Q.—About three or four years ago, or inside of that time—I am not prepared to state the time—from citizens here in town?

A.—I can't remember that. I had bottles sent up from Toronto with a request to fill them with water from the different points.

Q.—Have you within the past six years been of the opinion that we were getting as good water, or have made the statement that we were getting at good water, as could be had?

A.—As good water as could be had out of the river.

(Adjournment was made at 12.40 noon until 2 p.m.)

Investigation resumed at 2 o'clock.

George Brown, sworn, examined by the Commissioner.

Q.—Mr. Brown, what is your occupation here?

A.—A steamboat engineer.

Q.—How are you employed, or where are you employed?

A.—By the Pere Marquette Railway on their car ferry "International."

Q.—Crossing and re-crossing the stream?

A.—Yes.

Q.—Are you familiar with the conditions here?

A.—I am.

Q.—For how long have you been observing those conditions?

A.—About 25 years.

Q.—I am informed that you know something about the rise and fall of the water, the currents, and the like of that; tell us something about the currents?

A.—With every change of wind from north to south, or from south to north, there is a rise or fall in the current of from one foot to eighteen inches, and sometimes these rises or falls of the current are very rapid.

Q.—You mean the rise and fall of the river?

A.—That it is very rapid. Take for instance with a north blast, the river will rise quickly; usually the fall is a little slower; sometimes we have a rise and a fall very rapidly.

Q.—A rise and fall—what influence would it have upon forming unusual currents or irregular currents?

A.—The tendency would be to send the water up into any little creeks or rivers. Take for example Black River, the tendency is to send the St. Clair River water up, and when the fall takes place it goes down; the same tendency is in the bay.

Q.—The Black River takes the sewage across the bay?

A.—Yes.

Q.—What effect would it have upon the water supply?

A.—No effect.

Q.—What tendency or effect would there be upon the intake?

A.—The tendency would be to bring the waters out of the bay, and bring them over the channel bank, and of course, at certain seasons of the year, that water would naturally find its way down to our intake pipe.

Q.—Are you just assuming that foot or eighteen inches, or have you measured it?

A.—I have measured it.

Q.—Where?

A.—On our slip, on the planking of our slip.

Q.—Where is that?

A.—It is at the foot of Court street on the American side.

Q.—In Port Huron?

A.—In Port Huron. I have never measured it at the slip on this side.

Q.—Have you any reasons for believing that it would be different on this side?

A.—No, I don't think so.

Q.—The water would find its own level?

A.—It would find its own level.

Q.—Tell me when the ice appeared here this year?

A.—That would be a little difficult. It was the first week in January, I think, although I would not like to say.

Q.—The cold spell came on about the first of January?

A.—Yes, and about two days after the cold spell came on it was frozen over on our bay here.

Q.—What effect would that have on river conditions?

A.—I think the tendency would be, as Dr. Pousette says, to cut off the little streams that would be running in, to a certain extent; but on the river conditions, it is hard to tell what the effect would be when the river is thick. That is a question we want to get at. This year it would have very little effect, but when the ice comes down out of the lake, and it is blocked at one point, it will send the water around in one direction, and if it is blocked in another point it will send it in the other direction. It blocks right to the bottom, at times.

Q.—From your observations of the river conditions, as you have described them, what would you say about the safety of this water supply?

A.—I certainly think it is not safe.

Q.—If, for instance, the ice had any effect in improving conditions, and it

takes a couple of weeks for typhoid to develop, the diminishing of the cases would not be caused by the ice conditions?

A.—No. I do not think it would, and I don't think this year there have been any ice conditions except that of freezing up in small streams. That would diminish the typhoid.

Q.—There are some very large boats go down this river, are there not?

A.—Yes.

Q.—How many feet of water would some of these large boats draw?

A.—About 19 feet.

Q.—Would there be any suction?

A.—Yes, there is always more or less suction.

Q.—What effect would that have on the stream?

A.—That was one of the first things that drew my attention; when a boat was going up stream our boat in the slip would rise and rise, and after the boat had passed it would fall again, evidently indicating that the water was rising and falling with the passing of the boat.

Q.—Would the boat have any suction that would draw any outlying waters into the channel?

A.—I remember there was a case not long ago where, in manouvering with some of the war vessels, they took up that question—the tendency of a small boat going by a large boat is for it to be sucked right in. The same tendency, I believe would be to suck water over towards the boat.

Q.—Is it not a fact that when boats are unloading grain by the elevators, wherever they have a "leg" sticking down that vessels shall keep well away from them during the rise and fall, for fear it would stick through the bottom of the vessel?

A.—Yes. They frequently ask them to check down their speed when coming past.

Q.—All this would go to show that the boat traffic here would be injurious to the water supply?

A.—I think so.

Q.—What would you say, as a man used to the river, of the danger in which that intake is placed by the boats anchoring?

A.—As a matter of fact, most of the boats coming down out of the lake in a fog, would cast anchor a little above or in the neighborhood of that intake pipe, in order to save themselves getting into trouble further down the river.

Q.—Then there is no security against the intake pipe being caught by an anchor?

A.—Not that I know of.

Q.—The town, for instance, would not have any jurisdiction to say where boats must cast anchor?

A.—They have a notice up that they must not drop anchor by the intake. I don't know that any boat is compelled to take any notice of that.

Q.—They have ignored that, I believe; the Province even has not jurisdiction over navigation.

A.—I don't know.

Q.—You admit that the boats can do as they please, as far as anchoring is concerned?

A.—They would do it, if the safety of their boat was at stake, because they would rather tear up the pipe, than have any danger happen to their boat.

JOSEPH B. DAGAN, sworn, examined by the Commissioner.

Q.—You are a man who has had some considerable experience with river conditions. I understand?

A.—Well, I could not say that; I was connected with the waterworks system when that extension was made. I heard it said this morning that the old intake was 250 feet, whereas it was only 186 feet, and went out 720 feet.

Q.—I was under the impression that it was out 180 or 186 at first, and then was extended to 250?

A.—No, the original intake where we pumped water for years, was 186 feet.

Q.—I have this information, that in 1898 the intake was extended 78 feet?

A.—The original intake was cut off and left at 170 feet, or something like that

Q.—In 1905 it was extended to approximately 700 feet?

A.—Yes, 720 feet.

Q.—The idea of extending was, of course, to get a better and safer water supply?

A.—That was the report we went by, of the late John Galt. We got his report.

Q.—As a matter of fact, do the records not show that conditions in regard to typhoid fever have not improved since 1905? We have here a list of cases from the hospital, in which in 1904 there were 18 cases: in 1905, 46, and in 1906, 41, then 28, 49, 46, 35, and 59 last year; those are hospital cases alone?

A.—Yes.

Q.—We must, of course, consider the increased population, but I think it will be shown that the increase of population has not kept pace with the increase of typhoid fever: you would expect if the intake was going to do any good, that you would have had a less number of cases?

A.—We had a case here which probably you have not heard of; the chief epidemic came off in November, did it not, of 1911?

Q.—The larger number in December?

A.—Well, there was a boat that was wrecked here upon our shore about 200 feet below our main sewer that goes down Cromwell street; a big hole was stove in her bow; that boat remained there covered up for three weeks, right below where our main sewer is; would that have a tendency to go right into that cargo—the sewage that Dr. Amyot talked about?

Q.—Was it raised at the end of three weeks?

A.—It was pumped out at the end of three weeks, taking it probably about where the break is; it was unloaded right above our intake.

Q.—You might have that condition occurring again?

A.—I don't know whether the town has any rights to the channel bank on our own streets: that is a point which would have to be decided. I suppose: if we have that, we can protect it as long as we do not go into the deep channel or water way, I would judge.

Q.—What did you say about the danger of the intake being broken by vessels at any time?

A.—I think probably in that case it could be protected, if we have the right of way to the channel bank of the town there would be nothing to hinder them driving spiles right above the water, and planking across and hanging lights down. But that is not the question: the question is, whether we have impure water.

Q.—What is your opinion about it?

A.—I don't know where we are going to get better.

Q.—But what is your opinion on the quality of the water you have been having here?

A.—According to the analyses—I heard you read one this morning, Mr. Chairman, that it was impure, taken from the foot of Cromwell street just where our sewers empty. I would not expect that that would be pure.

Q.—It was from the foot of George Street, and out 1,000 feet?

A.—The foot of Exmouth Street was mentioned. I think there was a report of 8 tests—3 impure, and 5 pure.

Q.—If water is impure at any time during the year, you could not say it was safe; if it was impure at any time of the year, you would not say it was safe?

A.—No, I would not say it was safe. We had an analysis from Ann Arbor of late, and it seems that it came back pure too, by the report; at least the paper says so. Of course I am not in the council, I am out of public life.

Q.—I would like to see those analyses from Ann Arbor; I asked the gentleman who made the analysis in Ann Arbor if he would come here and give evidence, and he replied that it was impossible for him to come, that he was having a meeting of the State Health Officers to-day and to-morrow in Ann Arbor, and that it was impossible to come, so I have endeavored to get his evidence, and if there are any reports here I hope we will be able to see them. I understand some people have them?

WITNESS: There was another thing; the dredging of the shore that has been used for years for sewage; that has been unloaded, the best part of it, right at our intake. I think the Toronto diver just found the conditions he spoke of—that black liquid.

Q.—I suppose they will have to dredge again in the future?

A.—Yes, but I think they are not allowed to discharge any sewage or garbage within a certain radius of the waterworks.

Q.—I don't think there is any such law?

A.—No. Then you think they could pollute that?

Q.—Ontario has not any such law?

A.—Well then, the sooner we get it for the protection of the people, the better.

Q.—Ontario cannot give it to you, Canada cannot give it to you, the only way is by an international law between the United States and Canada; the province has no jurisdiction over this stream out here; that being the case, the very thing you look upon with suspicion might occur again?

A.—I think that would be a case for the Board of Health to look after.

Q.—The Board has no jurisdiction; seeing that the Board has no jurisdiction, that the province cannot make any law to govern that, the same thing may occur again; will you admit that?

A.—Yes. In that case the city cleanings can be taken out in a scow into the river and dumped, and there is no protection; it seems a strange law to me.

Q.—But it will not be strange, when the province has no jurisdiction in international waters, the town has not jurisdiction over the navigation; they cannot say, "You must not deposit your anchor by that intake;" if that is true, is not the intake at the mercy of anchoring vessels?

A.—No doubt.

Q.—Can you say when the ice formed in the water out there this year?

A.—I could not say, I am sure; I think it was some time in December.

Q.—Would you be sure it was in December?

A.—Or January. I did not pay very much attention to it. I am not a curler or a skater, at the present time, although it is just back of my place of business.

Q.—If you recollect back, don't you remember whether it was very mild weather during Christmas week?

A.—Yes, it was.

Q.—There was evidence given to-day that the ice formed about the first week in January; would you say that that is correct?

A.—I guess so; I think the ice formed there the first week in January.

Q.—And it is known that it takes two weeks for typhoid fever to develop, after the infection is received; does that show that the forming of the ice had nothing to do with the decrease in typhoid?

A.—I am not a medical man.

Q.—But if that is the case, the ice would not have had any effect in diminishing the cases?

A.—No, I don't suppose it would.

Dr. Amyot: What was the date of the chlorination?

The Commissioner: The 28th of December, as near as I can recollect. They had it in operation by Christmas Day, but something went wrong with it. We will be able to show that by some other evidence.

Dr. S. B. Wilkinson, sworn, examined by the Commissioner.

Q.—You have been practising here for some considerable time?

A.—Yes sir.

Q.—You are a regularly qualified medical practitioner?

A.—I am.

Q.—How long have you been practising in Sarnia?

A.—About 16 years.

Q.—Previous to that you practised where?

A.—Ten miles down the river.

Q.—At what place was that?

A.—Mooretown.

Q.—I have been led to understand that you know something about typhoid conditions there, and in that neighborhood, or a place called Brigden; is Brigden a township?

A.—Brigden is a village, ten miles east of Courtright.

Q.—You know something about conditions in regard to typhoid there?

A.—Yes, for the 10 years I lived there, they did not have any typhoid in Brigden.

Q.—We have a list here of hospital cases that have occurred in Sarnia for a period of 10 or 12 years back—as far back as 1896. This list was proved here by the lady who made the return?

A.—Yes.

Q.—What would you say about the proportion which hospital cases bear to the total cases; if there were 10 hospital cases, how many would there be out of the hospital?

A.—At the beginning of the hospital's career, there would be more outside;

latterly the proportion would not be as large outside—more people going to the hospital; one to two I think would be a fair average—one in the hospital to two outside would be a fair average.

Q.—You would think that would be a fair average?

A.—I think so.

Q.—That was about the proportion last year?

A.—Yes.

Q.—We have established that there were about 150 cases in Sarnia last year?

A.—Yes.

Q.—Do you think that is a large number for a town of Sarnia's population?

A.—Yes.

Q.—I have information that the Town of Chatham which has a population of 12,000, had in 1909, 10 cases, in 1910, 19 cases, and in 1911, 28 cases, that is, hospital cases and all; there the population is 12,000; your proportion here is extremely large compared to that?

A.—It is indeed—too large.

Q.—The number of deaths occurring here last year was 14; is that a large proportion?

A.—Out of typhoid per hundred?

Q.—14 died during the year.

A.—Do you mean, of typhoid?

Q.—Yes.

A.—It is not a large percentage; 150 cases, and 14 died, you say?

Q.—I do not mean in respect of the number of cases; I mean the typhoid rate; the typhoid rate for Toronto is considered high, and is about 20 per 100,000, but this would be 140 per 100,000?

A.—It is a very high rate. I thought you meant the proportion of deaths to typhoid cases.

Q.—Would you be led to regard this as a severe epidemic?

A.—As compared with other years?

Q.—Take the year itself; I want to get at whether you believe this was an epidemic of typhoid fever, or whether it was a simple thing and one not worth considering?

A.—It was an epidemic. It is rather a usual thing, unfortunaely, here every year, more or less.

Q.—I have a list of cases you have certified to, Dr. Wilkinson, and I just want to ask if it is correct—the list you sent to Dr. Bell?

A.—It is correct.

Q.—There are given by you 10 cases?

A.—Yes.

Q.—That is correct, is it?

A.—Yes.

Q.—Then you have no doubt that this was an epidemic, and a severe epidemic of typhoid fever?

A.—Yes.

Q.—And there is no doubt about that these cases you reported were cases of typhoid fever?

A.—None whatever.

Q.—I would like you to look at that list you have just laid down: how many are there for the year 1910?

A.—Total cases, 60.

Q.—I mean Sarnia cases alone—in the middle column?

A.—35.

Q.—Those are only the hospital cases; isn't that a large number for a town of this population—Hospital cases alone?

A.—It is, indeed.

Q.—Take the year before?

A.—46.

Q.—What would you say about that?

A.—Too large.

Q.—And the year before that?

A.—49.

Q.—Looking along that list in the same way, would it appear to you that there has been an epidemic of typhoid fever almost every year for the last ten or twelve years?

A.—Yes; we have always had it in plenty.

Q.—Always much too many cases?

Q.—Would you say the number was extremely large for the number of the population?

A.—I would.

Q.—Because, as you go back the population was not as large, seven, eight or ten years ago?

A.—I don't know.

Q.—In your opinion, is the water supply at fault here?

A.—It is the only way I can account for it.

Q.—You remember in 1905 the intake was installed?

A.—Yes.

Q.—That was intended to help the situation?

A.—Yes, that was intended to help the situation.

Q.—Does it look, from that list, as if it had done so?

A.—Not very materially.

Q.—There were only 18 cases in 1904?

A.—Yes.

Q.—And in 1905, when the intake was extended, it was increased to 46?

A.—Yes.

Q.—And the next to 41?

A.—Yes, I think the intake is worse where it is by 300 feet.

Q.—You have heard the evidence of the gentleman previous to you?

A.—No.

Q.—It was admitted that we have no control over vessels and their anchoring?

A.—Yes.

Q.—If that is the case (and it is the case) any vessel at any time can come along and break your intake?

A.—Yes.

Q.—You would admit that?

A.—Certainly: that seems to be the right vessels have: I don't think it makes any difference whether they break it or whether they do not.

Q.—You do not think it is any better 700 feet out?

A.—I think it is worse; I think the eddy carries out to the 700-foot point; I don't know that that is so, but I do know that everybody who takes a drink of water here is gambling with typhoid fever.

Q.—The people say that only so many get typhoid fever?

A.—The rest are like the negroes in the South, they are immune; the negroes do not get yellow fever.

Q.—They are either immune or have pretty good luck?

A.—They are immune; there is no luck about this business. If you get a dose of it, you are going to get it.

Q.—You do not think there is anything in this question about dirty back yards?

A.—No; Petrolea has no cases, I understand. Looking back over 27 years along the river front, typhoid fever has only been half a mile from the river bank. My practice has extended down to Port Lambton, 27 miles; some years we have had more than others, and those years we had cases of typhoid fever were years when the summers were dry and the farmers' wells along the river front ran out of water, only surface wells in clay, and they were all going to the river for drink. I had not been here three weeks before I had to go to bed for six weeks with this blooming thing. Back of that half a mile they hadn't any cases; some of the doctors had to come out to see some of my cases to see what they looked like. The farmers back from the river had the same sort of wells as at the front, only they did not use the river water.

Q.—Considering that the water in the river is the cause of it, to what do you attribute the diminishing list of typhoid cases during the last few weeks?

A.—Every year as soon as the shore line is frozen up I noticed that we did not have it: it stopped very suddenly some years, and we would not have a case crop up at all.

Q.—The evidence is that the shore line did not freeze up until the first week in January, and the cases began to diminish about that time?

A.—There was a cold spell, if you remember, in November, that had something to do with it.

Q.—The cold spell in November did not have any effect on the typhoid?

A.—No.

Q.—Because you had it worse after that?

A.—Yes. But those cases may have been developing before; it comes on in the Fall, anyway; it does not come on in the summer time, except a very odd case.

Q.—That all goes to show that the water is the cause of it?

A.—No doubt; it looks very plain to me.

Q.—Petrolea had not an authentic case before during this last year, at all?

A.—I understand so.

Q.—Where does Petrolea get its water from?

A.—From the lake; I don't think the well water is any too good, but I think it is one hundred per cent. better than the river water: and until the Ontario or the Dominion Government, or whoever has the right, steps in and stops villages and towns from dumping their sewage into the streams we will have trouble.

Q.—The difficulty is that the Ontario Government hasn't any jurisdiction over international streams?

A.—Well, they have a good Government at Ottawa now.

Q.—The only way they could get it is by an international agreement?

A.—If we did our share there would be less trouble: the same conditions are on the other side of the river; they had a bad epidemic one year, and every town along the river front (and there are a good many villages along there) has an epidemic every fall.

Q.—And the country back does not?

A.—They do not.

One of the Audience: Q.—Is there not an epidemic of fever in Port Huron?

A.—I don't know that there is an epidemic; some years they have it there, and some years they do not.

Q.—You notice the certificate of the doctor over there that they are free from typhoid fever?

A.—Yes.

The Commissioner: Q.—Is it the same water?

A.—No; they have the advantage of us; they are up higher, and the lake current goes down to their pipe; they ought to have a considerable advantage so far as water is concerned, and if you had statistics and compared them for the last ten years with this list you would have some valuable information as to whether the water comes from the lake or from the sewage of the town or one block above the main sewage of the town.

This typhoid fever commences in the fall, usually after we have had some rains; the rain may wash some of the poison down to the river edge, and those large boats going up and down cause a suction from the edge and keeps washing it to and fro—the shore water. I have thought that had something to do with it; they do not seem to do any harm in the summer time, nor until the fall rains begin.

A Voice: Q.—Don't you think the change in the temperature of the water in the lake or in the bay would have a great deal to do with the water going from the bay into our intake pipe?

Dr. Wilkinson: I don't know what effect that would have upon the eddies and back currents along the shore line. In the fall of the year, the waters of the bay being shallower, and the waters along the shore being shallower, just when the first cold weather begins they will pass over our intake pipe, and the tendency would be to go to the bottom; I think that would explain it to a certain extent; that may be a factor, at any rate.

The Commissioner: Q.—With reference to the case in Port Huron, in 1909, as certified by the Health Officer at Port Huron in his return to the Board of Health of the State, the figures are:

1909	3
1910	49
1911	40

Can you say, Dr. Wilkinson, what the population of Port Huron is?

A.—About 30,000, I understand.

Q.—They have a very fair proportion of typhoid there?

A.—That is a very different population to ours, 10,000.

Q.—Here is the letter from Dr. Cote (shows to witness).

A.—It does not show up as bad as ours.

(Report marked Ex. 11)

Dr. Alexander Bell, sworn, examined by the Commissioner.

Q.—You are a regularly qualified medical practitioner?

A.—Yes.

Q.—How long have you been here?

A.—A little over 14 years.

Q.—First of all, you have a list of 24 cases during the last two months; is that correct?

A.—I think that extends back as far as July.

Q.—From November 1st to December 22nd, there are 20 cases?

A.—Yes; whatever I gave was right.

Q.—This is the written list Dr. Bell took from you?

A.—Yes.

Q.—Is it correct?

A.—It is correct.

Q.—You have no doubt that they were typhoid cases?

A.—None whatever.

Q.—You have heard the number of typhoid cases existing here during the past year: do you think it is a large list for a town of this population?

A.—Yes, I do think it is large for a town of this population.

Q.—Do you think that approaches an epidemic?

A.—I am quite certain it does—this fall.

Q.—Look at the list Dr. Amyot will hand you of Sarnia hospital cases; would you say that that is a large number even for the hospital to treat; were any of those yours?

A.—That seems a pretty good list.

Q.—Dr. Wilkinson and others have given it as their opinion that the hospital cases would represent about one to two of the town cases—that one-third of the total cases would be hospital cases?

A.—I don't think I have any way of ascertaining that.

Q.—Do you think it would be fair to assume that?

A.—That there were twice as many out of the hospital as in it?

Q.—Yes; that was actually the case—that there were more than twice as many out of it as in it?

A.—Take one year with another, possibly it would not be so, in my experience; the majority of my cases until this year I have tried to get into the hospital; this year I have not tried to get them into the hospital.

Q.—Would you say that if there were forty in the hospital there would be a large number outside?

A.—No, I think there might not be a very large number outside, and there might be that many in the hospital.

Q.—Take forty or fifty in some years: wouldn't you think that that number alone would be a large number for a town of this population to have?

A.—I would.

Q.—As a matter of fact, most of these years there was an epidemic of typhoid fever continually?

A.—Yes; much to my surprise there have been very many more cases in the hospital than I had any idea of.

Q.—And further than that, there would be more cases in this town than you thought?

A.—Yes.

Q.—What would you say about the source of supply of water here and the quality of the water?

A.—I have no doubt there are times that our water here is as good as any water could possibly be, but from observation I would say that the water is at times bad.

Q.—If it is bad at any time, it is not a safe water?

A.—That is what I would say; I would also say that if, upon a chemical analysis it is found that it is bad in the one month and good the next, it is condemned, in my estimation, for the whole of the year.

Q.—Are you prepared to admit that dirty streets or back-yards, or sewer gas, will cause typhoid?

A.—Not in themselves; not as long as it is kept down there and people do not handle these things; I think it is quite possible for a person to take typhoid from handling materials with their hands; if a person has a dirty back yard, (and as a few years ago a great many people had) mill wood used to be brought down and thrown into their back yards, and if they picked it up they would be just as liable to get it as a nurse handling a patient.

Q.—But I mean in a general way: the newspapers here say it is not the water at all, that it is the unsanitary condition the back streets are in, and the dirty yards, and that sort of thing; you do not agree with that?

A.—I do not: I do not think Sarnia is any dirtier than Point Edward, and as far as I can ascertain without living in Point Edward there is little or no fever in Point Edward.

Q.—Were the cases widespread over the town?

A.—Very generally over the town.

Q.—And in your opinion was the water at the bottom of it?

A.—There was no doubt about it, in my opinion; the last epidemic, I predicted that it was coming. I told some people that they were very foolish—where was our Health Board, that they allowed an old ship to be lying down at the foot of our streets here? Some say that scientifically that won't produce typhoid, but the air in that hold and the swill or garbage in the water right near the intake could not be there without mixing up with the water.

Q.—It would not improve the water?

A.—It did not; it gave in my estimation a very peculiar type at the time—it was enteric.

Q.—There were fourteen deaths during the past year; do you think that was a large death rate for a town of this size; it means that 140 out of every 100,000 were affected?

A.—Do you mean from typhoid?

Q.—Yes?

A.—It is a large death rate.

Q.—Toronto's rate for the past year was 20 per 100,000, and here it was at the rate of 140 per 100,000; assuming per 100,000, because that is the way of taking statistics of deaths, so as to have them compare on a level—if you had 14 die out of 10,000 of a population, it would mean that 140 would die out of 100,000?

A.—Yes.

Q.—You would think that that was a large death rate?

A.—I would think it a large death-rate.

Q.—You would think it was rather a serious thing for a town of this size?

A.—Yes.

Q.—Here is Chatham's record:

1909	19 cases
1910	28 cases
1911	19 cases

That is a good deal better record?

A.—Much less than this, if it is true.

Q.—And their death rate was, in 1909, none, 1910, 2, and in 1911, 2?

A.—In my opinion that may have some other bearing, as to the death rate; the death rate, and the percentage of cases, are two different things.

Q.—There were two died in a population of 12,000; that is a different story to 14 out of 10,000?

A.—Yes.

Q.—If two died in a population of 12,000, that is a good deal better showing than 14 in a population of 10,000?

A.—Yes, that is a better showing, all right; there might be some other cause for it, for their percentage being given at that. I heard of a man dying in a town not very many hundreds of miles from here, of malarial fever, and his death was put down to typhoid fever; but, he had a hemorrhage of the bowels.

Q.—However, those are the figures given to me by the Medical Health Officer of Chatham, whom I think will be here to-morrow, and if he is we will probably have his explanation; however, it is on the face of it a better showing than you have here?

A.—The cases here cannot have gone to bed as early as they did there. I do not think typhoid fever cases should prove as fatal as that if the patients go to bed in time; the cases that go around on their feet until they are almost off their feet form the biggest percentage of those who die.

Dr. John Amyot, recalled, examined by the Commissioner.

Q.—You have already been sworn?

A.—Yes.

Q.—I wanted to ask your opinion about that list of hospital cases, what significance it has?

A.—I think, from the evidence that has been already given, it is fair to assume from what we have seen in other places that about one-third of the cases here have been hospital cases.

Q.—Even if there were only that number of cases in the town, that you see represented as in the hospital, what would you say about them?

A.—If there was only that number, instead of there being eight times as many as other places, we would say only four times—but that is bad enough.

Q.—Have you any other remarks to make about that list, as to the time of the year?

A.—In looking over the list of cases in this report, the names were given for each month of the year, and in looking over them a great number of them have happened in the late months of the year, and yet in some years there have been a large number at the beginning of the year. On the whole, it is pretty well scattered through.

Q.—In a number of instances there are a lot of winter cases?

A.—There are a lot of winter cases, and those winter cases exclude contact cases, diminish the milk cases, diminish the fly cases, and as a rule are looked upon as water cases; where water enters into such things, and where other causes cannot be assigned for it, I would think that these winter cases indicate water—that they would point to the water situation.

Q.—The whole hospital report means that there has been an excessive typhoid condition here for many years?

A.—Yes; it looks to me as if the town has been in a state of epidemic for a number of years, and the only reason people have not waked up to it is that typhoid is such an undramatic way of ending a life that they have not noticed it, or been sick; if there had been that number of people hurt by street-cars or railways, or accidents, the people would have waked up to it and would have fought it out pretty severely, but they have died here and the people have never noticed it, and not being sick three or four weeks. It is on account of that undramatic way the people die, that the people do not notice it, and I think Sarnia has simply "gone to sleep" on this situation, and because the population is small and a comparatively small number of cases—thirty or forty in a town, as compared with the City of Toronto, they say that that is not very many; but when you compare the population of Toronto with that of Sarnia, and compare them upon that basis, and bring them upon the same footing, this is a terrific showing, in my opinion.

Q.—What about Chatham?

A.—It means that those deaths would show a death rate of 16 per 100,000, and this last year here means 140 per 100,000, for Sarnia, and 16 to 140 is not a very favorable showing for Sarnia, and I daresay if the number of deaths could be got in Sarnia during the last ten years, that they would compare the apparent situation here.

Q.—I will have those rates here this afternoon.

A.—On the whole, I think they have been in a chronic state of epidemic, but it has not been as explosive as this last year; but there is no reason why that should not happen again this year.

Mr. J. W. Hamilton: Q.—What do you mean by eliminating the fly cases?

A.—When you have a case of typhoid, and the excreta are not looked after, flies walk over that and then go into the houses, and from that you may have four or five immediately afterwards.

The Commissioner: Q.—But you do not get that in winter?

A.—Not in winter. It would look to me like water, altogether.

Q.—That is why winter typhoid looks more like water as the cause than anything else?

A.—Yes.

Dr. George G. Nasmith, recalled, examined by the Commissioner.

Q.—You have looked over this list of cases?

A.—Yes.

Q.—Do you agree with the conclusions Dr. Amyot has come to about this list of cases?

A.—Yes.

Q.—Just as he has repeated?

A.—Yes.

Q.—And about the proportions in respect of Chatham?

A.—Yes.

Q.—And the death rate?

A.—Yes; I have figured that out, too.

Dr. John Amyot, recalled, examined by the Commissioner.

Q.—It has been said that there are a certain number of people here have typhoid; somebody asked the question why didn't all these other people have it who are living here?

A.—One of the possible reasons is that they are immune. It has been found in large cities, where there is typhoid going on continually, that the newcomer is affected more than the others in proportion.

Q.—But isn't that the same condition that prevails in other towns—some parties will get it, but the majority will not get it?

A.—Yes; in the town of Mackado, Minnesota, they had an infection of the water from the artesian supply, by an overflow from a sewer into the pumping well, and that infection gave rise to pollution in that water; within a few days thereafter, 14,500 cases of diarrhoea developed in the town, the town having only about 30,000 population; that was just an explosive infection of the water, and yet ten days after that, typhoid commenced, and 450 cases developed out of those 14,500, presumably affected with the same organisms at the time, and yet only 450 developed typhoid. There are quite a number of cases of that kind on record. It is the same with animal inoculation—only a percentage of those that are actually inoculated hypodermically will contract the disease; a number will escape, even when inoculated to that extent. In typhoid, whether they are more susceptible or not, all cases infected do not necessarily develop, or we might say that of those inoculated all need not become infected finally or develop the disease.

Q.—Some have resistance enough to fight a disease?

A.—Yes. If we developed a disease every time we took on an agent of a disease we would never escape. The influences are about us, but we resist them. In an investigation in Washington it was found that some cases had taken in the typhoid bacilli; out of four cases that were investigated, or were found to have typhoid bacilli in them, one had had typhoid before, two of them had typhoid bacilli in their intestines, and one was a month and another a considerable time after that before they developed typhoid. The other one had typhoid bacilli, had been inoculated somewhere, he never had it, but carried it. Those were in Washington. So you may have the organisms about, and may be inoculated without carrying the infection.

Mr. J. W. Hamilton: Q.—Does the human system carry those germs all at once?

A.—No; the colon baccillus we do, but the germ of typhoid, no. It is something you have to take up from the outside.

Richard Bell, sworn, examined by the Commissioner:

Q.—Mr. Bell, what position do you hold?

A.—I am engineer at the water-works of Sarnia.

Q.—What was the date of the installation of the chlorination plant?

A.—It was along some time in December, but when we first started it we had to quit a few days on account of the pumps; it was along about Christmas time when we got going for good.

Q.—Pretty near to Christmas time?

A.—Yes.

Q.—In the last week of the old year?

A.—About that.

Q.—Is it working satisfactorily now?

A.—It is working first-rate.

Q.—You know a good deal about the intake, I suppose?

A.—I know something about it.

Q.—What do you say about the danger of the intake becoming broken by boats?

A.—If it has been broken in the way the diver says it is, it is liable to be broken in the same way again.

Q.—We have the affidavit of the diver as to the intake, and I suppose we can get information from another diver; you saw the plan which was put in the papers?

A.—Yes; he gave me a plan of it.

Q.—Is there any guarantee that you can preserve any intake safely under similar circumstances?

A.—Not that I know of, unless there is some law to protect it.

Q.—Well, I don't think there is; do you know anything about the currents in this river?

A.—Well, there has been a back current up along the dock there that we have noticed, especially when there is a south or south-west wind.

Q.—You have observed it, yourself?

A.—I have observed it, myself.

Q.—What effect would that have on the water supply at the intake?

A.—It would depend a good deal if that back current goes to the bottom of the river; it might have some effect, but if it only goes down a couple of feet I don't think it would have any effect at all.

Q.—As a matter of fact, you do not know whether it would affect it or not?

A.—No, sir.

Q.—It might, or might not?

A.—It might, and might not.

Q.—What effect would the suction of those large boats have?

A.—Some of those boats, the largest of them, when crossing the bay, I have seen them stir up some of the black water from the bottom.

Q.—And what about the suction from the shore lines?

A.—Our water is too deep just at the shore line, where they go across; I would not think that they would bother that a great deal.

Q.—What about a boat?

A.—They do not go up far enough, those big boats, to interfere with them, I don't think.

Q.—Do you think the navigation here is sufficient to contaminate the water much?

A.—I could not say anything about that.

Q.—The river pollution?

A.—I could not say.

Q.—You would not be able to say anything about that?

A.—No, sir.

Q.—What do you say about the situation of the water works, in regard to safety from fire?

A.—As far as fire is concerned, it is not in a very good place.

Q.—If it were intended to purify the water by a filtration plant, would there be room enough, in that neighbourhood; is there space there?

A.—I think not; they have not ground enough.

Q.—Wasn't there a fire which threatened the destruction or the safety of the waterworks here a few years ago?

A.—Yes, there was.

Q.—Do you recollect when the mills came to Sarnia—the Cleveland-Sarnia mills?

A.—I could not tell exactly the year.

Q.—Do you know the number of men employed there?

A.—I have heard there is from 200 to 260.

Q.—Do you know where that sewage goes?

A.—I suppose the most of it goes into the bay.

Q.—What do you say in respect to that regarding the quality of the water?

A.—It would not be improved by it.

Q.—Would it make it worse?

A.—Naturally it would.

Q.—Do you know anything about the rise and fall of water in the river?

A.—Yes; when Mr. Turner was chief there he used to take it at least once a week, and lots of times oftener than that; if we should happen to notice a very large variation of the water either one way or the other we were always supposed to go and tell him, which we did, and he had a rod there and used to go out and measure a spile, and mark the date and everything, and keep it.

Q.—What are the facts?

A.—I have seen it vary four feet; I have seen ice form over the slip, and the water go down and then ice form again, and I could crawl in between the two thicknesses of ice—ice which would form on the water after it was lowered. I could crawl in between the two quite handily.

Q.—Would that have any effect upon the water supply?

A.—No, that would not have any effect. The only trouble we had was with what we call "needle" ice.

Q.—But the lowering of the water, would that not have some effect on the supply in that river?

A.—No, I don't know that it would have; we are supposed to be in over 30 feet of water out at 700 feet, and when we were in farther we were supposed to be in over 30 feet of water.

Q.—But when there would come anything to disturb the water, wouldn't it make a difference?

A.—It would, if it disturbed it at the shore.

Q.—But if it disturbed it at the shore, it would disturb it in the centre?

A.—Well, some people say that the swash won't let it go out and contaminate it. I am not prepared to say about that.

Mr. George W. Brown: Q.—I would like to ask Mr. Bell where the sewage from the waterworks building empties?

A.—The sewage from the waterworks building empties away down below Lochiel Street, pretty near to Cromwell Street, into Clark's Dock.

Q.—How many pounds of chlorine are you using at the waterworks plant in twenty-four hours?

A.—That is something I cannot exactly tell you. We are putting in 20 pounds of chlorine—the powder—into 40 gallons of water, and out of that we take

one gallon of the solution and put it into 40 gallons more, and we pump out of that and put it into our mains.

Q.—But getting somewhere near it, you are using something about 60 pounds of chlorine a day, are you not?

A.—No.

Q.—How many pounds are you using in a day?

A.—I don't think we are using 20.

THE COMMISSIONER: Who gave you the instructions about what you were to use?

A.—The civil engineer, I understood, got it from Toronto—Mr. McLean.

Q.—You followed the instruction he gave you?

A.—I followed the instruction he gave me ever since. Of course sometimes we pumped more water in a day than others; but this pump regulates itself, if the engine goes fast this pump goes fast, must pump in more chlorine. We have put in as high as 26 barrels in 24 hours. The faster the engine goes the faster the pump goes.

MR. BROWN: Q.—As a matter of fact, the number of gallons of water you have pumped in a day of 24 hours is about 3 millions?

A.—We have run as high as 3,750,000 since we have been putting in the chlorine.

Q.—And still you are using about 20 pounds of chlorine?

A.—I would not like to say that we are using so many pounds of chlorine. We are putting 20 pounds of chlorine into 40 gallons of water.

Q.—That information can be secured?

A.—You can figure it out yourself; come down any day, and we will tell you how many barrels we put in the day before, and you can figure it out; the amount of gallons we pumped; and then you can get at it yourself.

Q.—Can we get any idea of the amount of chlorine that has been used ever since the plant has been established?

A.—There was a chemical analysis of the water made since we have been putting in chlorine; my boy made it, and I understood that we were putting in nine per cent. per millimeter, or something like that, but I do not know; I cannot answer the question.

Q.—You state you are too far away to be affected by the rise and fall of the river from the boats passing by; how far would you be away from the boats?

A.—I meant that the water was so deep that I never noticed, and I don't think it would have any effect as to the rise and fall of the water.

Q.—But if the water in the entire river rises and falls?

A.—I cannot say that it does. The evidence I have intended to give is that I was taking measurements on one side of the river, and boats going up and down on the opposite side. By actual measurements I found the boats make a difference of from 12 to 14 inches, and boats such as the *North-West* make a difference of twice that amount; in fact, I have known a case of a boat lying in the slip, and, one of those boats coming along, it was raised up so as to put her guard on top of the sheet piling, and that must be four feet: and the side-wheelers would make a variation of two feet in the distance across the river from where we were lying at that particular time.

When you come to mention it, when the *North-West* and the *North Land* came out first they ran a good deal faster down the river than now. In that first summer I remember a tug lying at our dock, and somebody said to let us go down

and see what effect it had, and before he got his lines clear it caught his yawl on the dock. Of course I never thought of it until you mentioned it now.

ROBERT FOOTE, sworn, examined by the Commissioner.

Q.—It was intimated to me that you might be able to give some information about the currents in the river, and in a general way about boats, because you are used to the shore here; do you know anything about the irregular currents in the river?

A.—Well, I do not, sir; I don't know much about them.

Q.—Do you know anything about the rise and fall of the river due to winds?

A.—Yes.

Q.—I have been told by one witness that sometimes the river will lower five feet with a south wind?

A.—I have never seen it do that, but I saw it the other day where my boat is lying now, and it had dropped about three feet with a south wind. It was last week one day.

Q.—What is the name of your boat?

A.—The *Hamonic.*

Q.—Is it a large boat?

A.—Yes sir.

Q.—What effect would the suction of that boat have on the shore waters, the waters along on either side of her, when she would be passing along?

A.—In passing up and down here, it would not have a great deal, because we are not allowed to run more than nine miles an hour. Where we go full speed down the river I have noticed 18 inches between Stag Island and the Michigan shore, along that shore.

Q.—Do you think the displacements caused by the boat might have some effect upon the water supply?

A.—Not here; I would not think so.

Q.—Do you know if there is anything to prevent you anchoring at any place you like?

A.—There are places where we have orders not to let go our anchor; we have orders to that effect.

Q.—Is that in the neighbourhood of the intake?

A.—No.

Q.—I mean in respect of the intake?

A.—I have not heard anything of that.

Q.—As far as the intake is concerned, if you saw the necessity you could put your anchor down any place; if there was something that indicated to you that you should anchor, you would not consider the question of the intake as far as the safety of your boat was concerned?

A.—I think I would; if I was going to damage the intake, I would not want to let my anchor go.

Q.—But that would not be the first consideration?

A.—If it was to save a collision, or anything like that, I certainly would let it go, if I lifted the whole pipe.

Q.—So that if there were conditions you could not control, you would let the anchor go, even if it did injure the intake?

A.—Yes, sir. Of course we are warned at several places not to let the anchor go; but still to save a collision we would let the anchor go.

Q.—What I am seeking to bring out is, whether the intake—as it should be—would be always absolutely safe from the anchoring of boats?

A.—No.

Q.—It is said that the anchoring of boats has broken this intake as it is now; of course nobody knows it, but it is a safe inference?

A.—Yes. A great many people going up and down that river would let an anchor go, in foggy weather; they do not know it is there.

Q.—You could not guard against that?

A.—No sir.

James D. Stewart, sworn, examined by the Commissioner.

Q.—You have been Clerk and Secretary of the Board of Health here for a long time?

A.—Twenty-three or twenty-four years.

Q.—You have from time to time received reports of analyses of water, have you?

A.—Not very often.

Q.—Have you received any from outside the Province?

A.—Not any.

Q.—You have not received any from Dr. Vaughan?

A.—None.

Q.—Have you seen any of them?

A.—No; I have not.

Q.—It is said by some parties that certain reports in regard to water examinations have been suppressed; do you know anything about that?

A.—No. I have been told that reports have been received, but I have never seen them.

Q.—About the death rate from typhoid during this last year, can you say as to the number?

A.—Fourteen.

Q.—So what I have been quoting to-day is correct?

A.—Yes.

Q.—What was the total number of cases reported to you up to the end of the year?

A.—151, I think.

Q.—So what I have been speaking of is practically correct?

A.—Yes. But there is one matter in regard to the death rate in which I think the deductions drawn are incorrect.

Q.—In what way?

A.—The returns as to the source, as to the residences, and what would give information as to the sources of the disease, are very imperfect. I was looking over the list of deaths—this is only in the interests of justice, I understand—in the year 1911. In those fourteen there was the death of a Captain Empey, a sailor or master mariner; he was a comparatively close neighbor of mine, and the belief which I have no doubt was well founded was that he came home sick at the end of his season, and died in Sarnia. There were also two employees, train men on the railway. I think in those cases as a matter of legal evidence it would be unfair to say that they caught the disease here, that they caught the disease from the water. There is no evidence to prove it.

Q.—Wouldn't the same be true with regard to every other place we compare with Sarnia?

A.—I don't know.

Q.—If a man dies of typhoid fever in Toronto, it is reported as a death in Toronto, and the same with Chatham?

A.—It is a question if the railway population of Toronto, in proportion to its population, would be any larger or as large as Sarnia in proportion to its population. I am pointing out the reasons why I do not think it is absolutely just, that is, fair enough.

Q.—But still if you take the typhoid death rate in this place and compare it with the typhoid death rate in any other place, you must put it on the same footing?

A.—It would not be fair.

THE COMMISSIONER: Would that not be fair, Dr. Amyot?

DR. AMYOT: That is the only way you can do.

THE COMMISSIONER: I have the death rates for Sarnia, Chatham and Windsor for the past ten years:

	Sarnia.	Chatham.	Windsor.
1900	4	2	8
1901	5	9	5

A.—I think Windsor would be a pretty good town.

Q.—To continue:

	Sarnia.	Chatham.	Windsor.
1902	13	4	5
1903	14	2	4
1904	3	7	8
1905	3	3	6
1906	5	5	6
1907	8	5	12
1908	11	5	10
1909	8	7	8
1910	10	4	7
1911	14	4	7

Then Petrolia had in all that time but one case, in 1907, and one case which they question, in 1911. Those are three towns adjacent to one another, and the proportion of deaths was very much larger in Sarnia. Did you look over this—in Windsor a lot of people came in who took typhoid fever in some other place, but who came to Windsor and died there; the same here and in Toronto?

A.—Not quite. A man is sick; he is apt to be put off at the first hospital he comes to; I am not saying that we have not an epidemic of typhoid, because that would be foolish. But what I do say is, that I do not think it is fair to say that we have had 14 deaths in 10,000 people, while the average of Ontario, is only something like one in 100,000.

Q.—No; the average from all diseases in Ontario was 14.6?

A.—I think you spoke of the rate of typhoid deaths this morning?

Q.—We spoke of Toronto as 20 for 400,000 last year, while it is 140 here?

A.—I was going to point out the five under the same circumstances.

Q.—I don't think it is admissible, in comparison with other places. I think it is right to make out as good a case for your town as you can.

Q.—Certainly; however, you are prepared to admit that you have had an epidemic of typhoid here?

A.—Yes.

Q.—And have had it a great many years?

A.—Yes, and have had more deaths than we should have had.

Q.—And have had more deaths in the last ten years from typhoid than you should have had?

A.—Yes, I think that is also admissible.

Q.—You think it is a very large rate?

A.—It is too large; no question about that.

Q.—And the death rate has been too large?

A.—From typhoid?

Q.—Yes?

A.—Oh, yes.

Q.—Are the doctors reporting any cases now?

A.—They have been doing much better lately than they were before. I have made up a statement of the cases that have been reported, crudely, which will give you the figures since Dr. Bell's visit.

Q.—You said 151 cases altogether last year?

A.—Yes. I made a statement in weeks as to the chlorination plant, which would give a certain amount of information, I suppose.

Q.—What would you say about that?

A.—Dr. Bell's investigation was in the week of about the 18th of December, and the cases came in, 100 and odd reported in one day, and they went into my book, and the chlorinating plant was first established on the 20th of December. As I think, Engineer Bell said it failed a couple of times during the first week, so that I could not, from the books I had, and the way their reports came in, get any figures that were of any advantage before the week ending December 30th; that was ten days after Mr. Henning established the chlorination plant first.

Q.—When was the plant first working satisfactorily?

A.—As nearly as I can tell I think it worked satisfactorily in about six days after it was installed.

Q.—The day after Christmas?

A.—Yes. He was away for Christmas, and came back the following day, I think.

Q.—For the week ending December 30th we had 16 cases; for the following week, ending on the 6th of January, we had 3 cases; for the week ending the 13th we had one case, and that was entered by a doctor as being a resident of Sarnia Township; for the week ending the 20th we had four cases, and for the week ending December 27th we had four cases. This is January I am referring to—January 6th, 13th, 20th, and 27th. For the week ending January 27th there were four cases reported, and to-day there has been one case reported.

Q.—That is the end of another week?

A.—And this is the first day of another week. I report every Monday for the week that has preceded; at least, I am going to report to-day the cases reported last week.

Q.—Of course it is dying out?

A.—Yes.

Q.—Have you any opinion about the cause of it dying out?

A.—The mayor, at the end of the year, in December, and the Chairman of the Fire and Water Committee, issued very emphatic warnings to the people to boil the water, and I think it quite likely that a large number are still boiling the water they drink. There is no question that it is doing it.

Q.—However, they are taking precautions regarding the water, and those precautions that are taken regarding the water are diminishing the cases?

A.—I think so.

Mr. Horins: You took exception to Captain Empey's case?

A.—Yes.

Q.—In the cases reported was Mrs. Captain Empey's case included?

A.—No.

Q.—She contracted possibly the disease here, and was away during her sickness?

A.—Mrs. Empey was away during his sickness.

Q.—Didn't she go down with him to where he was buried?

A.—Yes.

Q.—And was sick at her home?

A.—I could not say. I heard she was sick, but did not know it was typhoid fever.

Q.—I heard it was typhoid, and was wondering if it was reported in the 151?

A.—I could not say; of course, it would have to develop here before it came in to me.

Engineer Bell: If you would like the date when the chlorinating plant was started, I will get it for you.

The Commissioner: Very well: I wish you would.

Engineer Bell: It was started Wednesday evening, the 20th, and broke down Thursday evening; it was broken down one evening, and started again on Friday.

Edward M. Ross, sworn, examined by the Commissioner.

Q.—You took some of the histories of the cases along with Dr. Bell?

A.—I did.

Q.—And they are in your handwriting?

A.—They are.

Q.—Those reports we have of the histories you took are correct?

A.—They are correct, as far as the information that was given to me is concerned.

Q.—You took down the information as you got it?

A.—Yes, as it was supplied to me. (Included in Exhibit filed by Dr. Bell.) There are a few observations I would like to make, Dr. McCullough, which I do not think have been brought out in evidence, some of the points I would like to cover. I took a record of some 30 and odd cases. One of the questions on that sheet that was given us for information, we were asked about the sanitary conditions of the town. That is a question you have asked a great many of the witnesses—what they thought of the sanitary conditions of the town. I am of the opinion that I can possibly speak better of the sanitary conditions of this town than maybe any other person in this town.

Q.—What do you think of the sanitary conditions?

A.—I think they are very bad.

Q.—Would that have anything to do with the causing of fever?

A.—To put up my opinion against that of a medical man would be presumption on my part, but I do not base my opinion on the judgment of the framers of the by-laws to protect the public health.

Q.—Of course, we are trying to get at the cause of the epidemic here; I suppose you will admit there has been an epidemic?

A.—I will admit that there has been an epidemic.

Q.—And we are trying to get at the causes of it; you have heard a good deal of evidence from the doctors?

A.—I have heard it all.

Q.—You have heard what their opinion is as to the sanitary conditions causing typhoid; have you any facts to advance to support the theory that bad sanitary conditions will produce typhoid?

A.—Just the framers of the by-laws to guard the public health; it looks to me as if there was a disposition to condemn the water and overlook conditions that are unsanitary conditions.

Q.—We are not condemning the water, except so far as it is a cause of typhoid fever; in your opinion, is there anything else that causes it or has caused it?

A.—I would not like to put my opinion up against that of doctors, but why should we take other precautions to guard the public health and then say that it has nothing to do with public health. It must have something to do with public health, or we should not make those laws.

Q.—Bad sanitary conditions become nuisances on account of bad smells, and are unsightly, and in the summer seasons they harbor flies, and flies carry filth to food, and if there are any typhoid germs in those unsanitary heaps of filth, the flies light on them and carry the typhoid germs to the food people eat.

A.—Then go back over the history of the cases I took a record of; several of those cases occurred in the summer months, during the fly time.

Q.—I thought you took a record of cases that occurred during November and December?

A.—No cases reported in December; some of them dated back for months. I went to houses where the patients had been walking around for one and two months.

Dr. Bell: The only names given to Mr. Ross to investigate were the cases given to me by doctors as having occurred in November and December.

Witness: Take Mrs. Chester's case.

The Commissioner: Did you investigate any cases in sanitary houses, houses in good sanitary conditions?

A.—Only one. I only found one house in a good sanitary condition.

Q.—You know as a matter of fact that cases occurred here where the premises were in a good sanitary condition?

A.—Not in my district—only one.

Q.—Do you know any apart from the one?

A.—I do not.

Q.—I understand that there were?

A.—My district covered a very large portion of the town.

Q.—The sanitary conditions may not be very good?

A.—I say they are fearful.

Q.—I am simply taking the evidence of those men in respect of what the sanitary conditions might or might not cause?

A.—I heard it given this morning that there had only been four contact cases in the town; I ran across two, if not three.

Q.—Whose cases were those?

A.—Forbes.

Q.—Who treated him?

A.—I don't know. There was one case reported as typhoid fever that was not typhoid fever, on the list that was furnished me.

Q.—You reported it as typhoid in your list?

A.—I don't think I completed the report, but it was counted as one of the 114 cases, or whatever it may be.

ALDERMAN E. C. LAWRENCE: I may say that my brother had typhoid fever, and his house was as sanitary as anyone could get.

THE COMMISSIONER: I don't think there is any use wasting time over this, because I am not denying that there may be unsanitary conditions here; but all the witnesses deny that bad sanitary conditions will cause typhoid fever, and the cause of the typhoid is what we want to get at.

WITNESS: And another thing, you will find that in the list of cases I gave two or three of them were not contracted in this town.

Q.—We have only taken cases contracted in the town; there is one case reported November 29th?

A.—But that is not either of the cases I had reference to.

Q.—Anyway, all the cases you reported were cases that occurred during the year?

A.—Cases that occurred during the year.

Q.—Then the cases you spoke of as contact cases, there were other cases in the house?

A.—Other cases in the house.

Q.—What did you assume with reference to those other cases, how they had contracted the disease?

A.—I would say the one case was from unsanitary conditions in the house—filthy conditions.

Q.—But that will not cause it; if you had to leave out unsanitary conditions, what would you say; the unsanitary condition of the house, when you get typhoid in it, the neglect of patients might contribute to give contact cases, but leaving out of consideration the question of contact cases, what would you say?

A.—The medical experts say that there are what they call fly cases?

Q.—Yes; if the filth itself contained the typhoid germs, if there were excreta thrown out—did you see any conditions of that kind?

A.—I did, and so reported it.

Q.—William Forbes was given as occurring in November; you have it in July?

A.—The man had been out of the hospital to my knowledge for months when I went to his house, or out of his home; his wife had been to the hospital, and she was better, and around when I visited the house in December. The Kerry case was the man who took the fever in Detroit, came here, and died in two or three days.

Q.—When was that?

A.—Early in the summer.

Q.—Was he treated in the hospital?

A.—No, he was treated on Maxwell Street.

Q.—Dr. Bell gives this case as a November case?

A.—The man died. He contracted it in Detroit, and died here two or three days after he came. The Dale case, the Chester case, and the Erskine case——

Q.—October 20th; what would you attribute as the cause there?

A—In the Erskine case?

Q.—Yes?

A.—Have you not two Erskine's?

Q,—We have Albert Erskine?

A.—There was another Erskine case that was reported as typhoid fever, when I was in the house talking to the woman she was sitting there at the table talking to me, she had never been in bed, and still her case was reported as one of typhoid fever.

Q.—That might be the case; lots of them walk around.

A.—Well, I think I gave a history of two Erskine cases. Then there was the Dale case, which was a case of Dr. Bentley's.

Q.—Did you find any cases where the sanitary condition was fair or good?

A.—Yes, I did; and there has been in that same house one case where the sanitary condition was good, there has been a contact case since, undoubtedly.

Q.—But the sanitary condition might not affect it at all?

A.—No. I say the sanitary condition was good. I gave Dr. Bell the Dale case on the Friday before he left.

Q.—Is there anything else you wish to speak about, Mr. Ross?

A.—All I wished to draw was the attention of the authorities to the very unsanitary condition of the town, as I saw it.

Q.—Some of the cases you have put here, less than half, you have it bad?

A.—I have some of them very bad.

Q.—You have 13 returned either "Not Good," "Bad," or "Very bad," and the balance of them "Fair"?

A.—Yes.

Q.—So that simply bears out the condition, that there was fever, whether they were Good or Fair sanitary conditions, and also have it where the conditions are Bad, and Very Bad?

A.—Yes. The point I was wanting to bring out was, why we should frame by-laws to guard the health of the citizens, when they are utterly disregarded. There is no sanitary inspection—absolutely none.

Q.—I agree with you that the care of the public health is not very well looked after.

A.—In this town it is a farce.

Q.—Perhaps this investigation will improve things; that is the object of it.

A.—I hope it will.

THOMAS DOHERTY, sworn, examined by the Commissioner.

Q.—What is your occupation?

A.—I am in the foundry business.

Q.—What opportunity have you had to observe sanitary conditions and the question of typhoid?

A.—General observation, I suppose, and reading.

Q.—You have heard some of the evidence to-day about the typhoid epidemic?

A.—Yes.

Q.—What have you to say about that; do you agree with it or not?

A.—Some I agree with, and some I do not.

Q.—Tell me what you agree with?

A.—I agree that there is considerable typhoid in town, but I do not agree with them all as to the cause.

Q.—What do you think caused it?

A.—My impression has been for years that there are four old trunk sewers

on the leading streets running back sending forth their abominable gases, and, previous to this outbreak of typhoid fever, coming down street and going through the town I came across very heavy fogs at different times, and they were warm, and walking through those fogs they were most disgusting.

Q,—A bad smell?

A.—Yes.

Q.—And very disagreeable?

A.—Very disagreeable.

Q.—But have you any authority for saying that they would cause typhoid?

A.—Yes, I have.

Q.—What is it?

A.—Dr. Koch of Germany, and Dr. Hoektoen, the pathologist, of Chicago University. They are authorities that these fogs and these gases from sewers will cause typhoid fever.

Q.—What Dr. Koch is that—the German discoverer of tuberculosis?

A.—Yes; he says you will breathe them into your mucous membrane, and they will pass down into your intestinal tract, and cause typhoid fever, unless you are strong enough to resist them.

Q.—In what work does he say that?

A.—I read it in a lecture delivered in a post-graduate course, before a thousand students in Chicago; it was copied in a paper a couple of years ago.

Q.—He was supported by Dr. Hoektoen?

A.—It was under discussion, and it was not disputed. There was quite a discussion about it, and an editorial in the paper.

Q.—Have you any other authority?

A.—Not along this exact line; but there is Dr. Koch and Dr. Walker.

Q.—Who is Dr. Walker?

A.—Dr. Walker is the author of several works on Biology; he has been a considerable writer along these lines.

Q.—I suppose you are prepared to admit this, if these men do say such things, that the weight of authority is very much against them?

A.—It will take a great deal of authority such as we generally have to make me disbelieve Dr. Koch.

Q.—As a matter of fact, I will tell you that practically all the authority in the world says that typhoid fever is not contracted by means of gases, or by means of sanitary conditions, directly?

A.—I believe they are, from my own observation.

Q.—Would you put your opinion up against the best authority in the world?

A.—I would take Dr. Koch, or Dr. Hoektoen, as the best authority in the world.

Q.—Are you the author of a letter that appeared in a paper signed "Ratepayer"?

A.—I have written letters in the papers.

Q.—Would you recognize this letter in the *Observer* of the 22nd of last month?

A.—I might recognize it, if you read it.

Q.—Here is a long letter of over a column, signed "Ratepayer," and I think you would recognize it if I show it to you, (shows to witness).

A.—Is this out of the *Observer?*

Q.—I think so?

A.—I wrote a letter to the *Observer.*

Q.—Is this the one?

A.—I think it is; it looks like it.

Q.—In this letter you have a good deal to say about myself not being consulted in the matter of the location of the Toronto intake pipe; what do you mean by that; you say here:

"Dr. McCullough ventures the assertion that our intake pipe is not in the right place. Rather strange the Dr. was not consulted in the location of the Toronto intake pipe, which has been changed so often, and which so far this year has cost upwards of a quarter million dollars, and there is no guarantee that it is any better than before."

What do you mean?

A.—That the doctor is assuming too much, that he was not only a medical doctor, but was also a hydraulic engineer. That is what I mean.

Q.—Is it not the privilege of a doctor, especially one in my position, to give advice to people if they ask it?

A.—If they ask it; but you come up here and assume that that was not the right place, before you knew whether the water was pure or not. That is where you make a mistake. If you found the water was impure, and then said the water intake was not in the right place, you would have been all right.

Q.—But you had not seen the analysis and did not know anything about it; have you seen the analysis made in Toronto?

A.—I saw them published, and saw one made in Ann Arbor, absolutely pure, and said that if they had typhoid fever here they had better be looking some place else.

Q.—They had analysis after analysis showing the water was bad, and I saw them before you or anybody else ever saw them?

A.—Before that intake was put in there, the only pure water was along the lake shore.

Q.—Where did you get that analysis?

A.—Up along the lake shore?

Q.—Yes?

A.—Right along the shore.

Q.—Who made it?

A.—Who took it?

Q.—Who made the analysis?

A.—It was made in Toronto and in Ann Arbor.

Q.—Who made it in Toronto?

A.—The School of Science, I think.

Q.—Could you produce it?

A.—I don't know.

Q.—I should like to see it?

A.—I think it is on file here, some place; it came here and was published in a paper, I think, about six years ago.

Q.—What do you know about the chlorination of water?

A.—I ought to know a little about it.

Q.—Are you a chemist?

A.—I have studied chemistry, some.

Q.—Tell us the process of the chlorination of water?

A.—Chloride of lime, chloride of calcium—CaCl.

Q.—Is that what is used here?

A.—That is what is used here, I would imagine; I don't know what they are using.

Q.—Is it chloride of calcium that is generally used?

A.—It is, for chlorinating.

Q.—How much chlorine is in it; what is the actual amount of chlorine?

A.—If you want that I will get it for you.

Q.—Do you know that hypochlorite of lime is used; do you know the difference between hypochlorite of lime and hypochlorite of calcium?

A.—There is very little difference.

Q.—Do you know the process; do you know how it is that chlorination of the water kills the bacteria; what is it that kills the bacteria?

A.—The lime. What kills the bacteria? We do not know that it does kill it, exactly; we are not sure of it.

Q.—Yes, we have absolutely proved it?

A.—You can drown them in it, I suppose.

Q.—Don't talk nonsense: do you know or do you not know, how it is that hypochlorite of lime or chlorine as you say will kill bacteria?

A.—Oh, I don't know, to come down to it.

Q.—You don't know anything about it, as a matter of fact?

A.—I don't know anything.

Q.—I don't think there is any doubt about that.

A.—I know this much, that I heard two doctors say in Detroit, the day of the Auto Show, discussing this very same thing in the hotel, and they said that doctors do not know anything more about the cause of typhoid than anybody else.

Q.—You ridicule the chlorination process, and you admit that you do not know anything about it, and you have shown by your answers that you do not know anything about it.

A.—How can I know when the doctors know it all?

Q.—And here you presume to teach the public, and to ridicule the Provincial Board of Health and everybody who professes to know something about it?

A.—How is it that the intake at Toronto is not in the right place?

Q.—I asked you what you could expect to do by such an article as this?

A.—Because I found you were coming up here and assuming more than you had any right to.

Q.—You do not know me very well?

A.—Maybe I know you well enough.

Q.—You say that "Typhoid fever is frequently, if not always, a septicæmic disease, and its range of infectivity is greater than is usually supposed." What do you mean by that?

A.—I mean just exactly what I say.

Q.—Well, what do you mean by it?

A.—I am not supposed to tell you.

Q.—You are supposed to answer questions.

A.—Well, I am answering the questions.

Q.—What is a septicæmic disease?

A.—A transmissible disease.

Q.—How is it transmissible?

A.—Transmissible either by conduction into your mouth by water, or by breath or by flying of the germs.

Q.—Of what?

A.—Of the germs of typhoid.

Q.—And you say that improper dwellings will cause typhoid fever?

A.—Yes, I say so now.

Q.—You have not any authority to support you in that; if you have I would like to hear it; have you any authority that will support you in saying that improper dwellings will cause typhoid fever?

A.—Yes, I have.

Q.—What is it?

A.—Any amount of authority.

Q.—What is it?

A.—All the pathologists in the country will admit that.

Q.—No.

A.—Yes; all the best of them do, and all but ignorant ones will.

Q.—"Exposure to decomposing organic matter"; how is that causing typhoid fever?

A.—Certainly. What is the use of burying all the excreta, and building sewers, when you might as well have your closet outside?

Q.—What do you think of pouring sewage into the stream you get your water supply from; what is your opinion about pouring sewage into a stream from which you take your water supply?

A.—I don't believe it is right. I believe it is dangerous.

Q.—How would excess in eating cause typhoid fever?

A.—It would burden your system down; it certainly will. A man can hurt himself by overeating just as well as by under-eating.

Q.—Will it cause typhoid fever?

A.—If you have the typhoid germs in your system you will get it by overeating. I can take you to twenty moulders in town here, who will drink more water in one day than the ordinary inhabitant would drink in a month, and why aren't they having typhoid fever?

Q.—Perhaps they are immune; why do you say that excess in eating will cause typhoid fever?

A.—Reading different books.

Q.—Can you give me the names of the authors?

A.—I don't know that I can give you the authors.

Q.—I can give you fifty that will dispute you—I can give you one hundred that will dispute you?

A.—You can't get any two doctors that will agree on anything.

Q.—We have had half a dozen here that will "agree on anything"?

A.—If you put words in their mouths, they will agree to anything.

Q.—You have no right to say that any man who came here to-day can be depended upon any less than you; it is impudent for you to say that these men are not telling the truth?

A.—I am not saying that.

Q.—You say that words were put into their mouths?

A.—Most of those were leading questions, which would not be allowed in any court of law.

Q.—I gave permission to anybody and everybody to ask what questions they wished?

A.—What Sarnia wants is a fair and impartial investigation, and I approve of it, but I do not think it is fair for any witnesses to be asked leading questions when they are on oath, upon any suggestion whatever.

Q.—You have not yet given me an authority for this excess in eating?

A.—I can get plenty. Give me a little time and I will get them for you. You

are the first doctor I ever knew to get up and pump it into me and say that excessive eating would not weaken your system.

Q.—Has any doctor denied any such thing, who has given evidence here to-day?

A.—That is all I have to say about it.

Q.—Well, what do you think of the situation of the intake?

A.—I think if the intake were put together properly you would get a pure water, or purer water than at the lake, because that was all gone into six years ago.

Q.—How would you know it was always intact?

A.—I don't think the divers have been attending to that pipe as well as they ought to; that pipe should not have been broken; it has been broken at least three years.

Q.—In your opinion, how long has it been broken?

A.—At least three years.

Q.—You would have to examine it every day; so you won't admit the water was ever bad from that?

A.—I will not admit that it was so bad as to make all this typhoid fever that is in town.

Q.—Will you believe that Dr. Vaughan, of Ann Arbor, ever said the water was bad from that locality?

A.—He did not say it was bad this last time. We had an analysis from him before, and he said it was good.

Q.—Will you admit he ever said it was bad?

A.—Not that I ever knew of.

Q.—Will you admit they said it was bad in Toronto?

A.—I have never seen it.

Q.—Will you take the evidence given this morning by Dr. Amyot?

A.—I was not here all the time.

Q.—I will read it to you: on December 22nd there was a sample taken from the Town Hall, from the Police Station, and those were examined (reads analyst's report), would you say that was fit to drink?

A.—No, it was not.

Q.—It was taken again on the same date from the foot of Exmouth Street?

A.—That is away up in the shallow water, where there is nothing but muck.

Q.—Do you think there is any chance of that bay water getting near the intake?

A.—No, sir, it cannot get near the intake.

Q.—Water was also taken from the tap of the Vendome Hotel.

A.—That ought to be all right; it is used a good deal.

Q.—It was taken from the side of the dock below the G. T. R. elevator?

A.—That is not a good place. That is below the sewer.

Q.—You will admit it was bad there?

A.—I don't know.

Q.—On the 30th of August last it was taken from four different places by Dr. Pousette, and all showed bad?

A.—It ought to have been taken up along the intake; that is the proper place to take it.

Q.—It was taken on the 9th of December by Dr. Pousette from five places, or five samples were taken, three were found to be infected; it was taken 1,000 feet out from the dock, and samples were sent by Mr. Johnson in 1905: they were taken

1,000 feet from George Street, and 700 feet from George Street, and both were found to have colon bacilli; would they be safe water?

A.—No.

Q.—You admit that there were samples taken from the neighborhood of the present intake which were unsafe?

A.—I don't know, but I don't believe you can get impure water from the centre of the river; if it is impure in the lake you will get it in the river, but my opinion is that it is as pure in the river as it is in the lake.

Q.—You say in your letter "Analysis after analysis proved absolutely free from coli communi. The only impurities found were in samples taken from the lake shore, where the pollution of the water was caused by the open sewers extending for many miles into the country known by the names of Perch Drain, Hickory Creek, and similar names, all the way up the shore for 25 miles."

But there is evidence which you must admit confutes your contention entirely?

A.—If there was bacilli there, it must have been in the lake.

Q.—You did not know it was in existence?

A.—No.

Q.—You will take back what you say in the letter?

A.—Which?

Q.—"Which upon analysis after analysis proved absolutely free from coli communi"?

A.—Certainly.

Q.—Here is a report sworn to this morning, which shows it was in two samples taken 1,000 and 700 feet from George Street; you will take back what you said in your letter?

A.—No, sir.

Q.—Are you not going to admit this?

A.—No, I am not going to admit it, because I don't know anything about it.

Q.—It was sworn to this morning?

A.—I won't swear to what somebody else swears to; if I took that water myself I would swear to it.

Q.—You say that samples were examined and showed the water to be absolutely free?

A.—That is true.

Q.—But at the same time samples were taken and examined which showed that it was not absolutely free, that it was polluted?

A.—I don't know anything about that.

Q.—That was sworn to this morning?

A.—That may be.

Q.—You would not take anybody's evidence but your own?

A.—Nobody's evidence, unless I knew that the water was taken from that spot.

Q.—If we get Mr. Johnson to prove that he took it from these spots, will you admit it then?

A.—Who is Mr. Johnson?

Q.—A resident here?

A.—I was present when there were several samples of water taken.

Q.—But if we get Mr. Johnson to say that he took it from these spots, will you admit it?

A.—If Mr. Johnson swears that the water was taken from that spot, I will believe him.

ALBERT JOHNSON, sworn, examined by the Commissioner:

Q.—Do you recollect in April, 1905, the 20th or thereabouts, taking samples of water which were sent to our laboratory from 1,000 feet from the dock, and 500 feet and 700 feet?

A.—This was previous to the installation of the present plant. I remember that in company with Dr. Bentley in the first case we went out and took samples, I could not swear now at what distance, but whatever was stated on the samples sent down, would be the correct distances. My memory of the affair was that one of those samples came back, with colon bacilli. We then, in company with Dr. Pousette, were asked by the Department to take further samples, and we took samples again from several points, 500 feet if I remember it rightly, 700, and 1,000 feet, and also samples from the deep channel at Point Edward. Speaking only from memory, those samples came back analyzed perfectly pure. My memory is that one of the first samples came back with a trace of colon bacilli.

Q.—What you say is perfectly correct; there were samples taken from the foot of Lake Huron at the same time, 150 feet out and in 20 feet of water, and then 150 feet out in 12 feet of water, and opposite George Street 500 and 700 feet out; and then this other one at the foot of George Street, 1,000, and 500, and 700 feet out; the reports from the Lake Huron water are that they were pure—a few parts chlorine, and no colon bacilli? The other ones that were taken at the same time that the Lake Huron water was sent down, what were the reports on those I am speaking of; was the water reported pure?

A.—That is my memory of it.

Q.—And also the George Street water at 500 and 700 feet?

A.—Yes, that is my memory of that. I might say that when these samples were taken the Medical Health Officer here questioned the procedure under which we had taken them; that was why the second samples were taken. He thought that probably the colon bacilli had got in in some other way.

Q.—As a matter of fact, you are satisfied that those were the samples that went down?

A.—Yes.

MR. DOHERTY: Q.—You and I were on the committee that time?

A.—Yes.

Q.—Isn't it a funny thing you did not let me know?

A.—Those reports were read at the committee.

Q.—I never heard it?

A.—Yes, I had them and read them there.

THE COMMISSIONER: Q.—Are you prepared to admit them now, Mr. Doherty.

MR. DOHERTY: Yes, I will admit it now that he has sworn to them, but it is a funny thing that I should be on that committee and not be made aware of any impurities that were found.

Q.—It is not always safe to be sure?

A.—When I make up my mind and say a thing, I will stick to it.

MR. ELDON WOOD: 1,000 feet from the waterworks dock takes us over nearly to the piers of the Port Huron side.

THE COMMISSIONER: Where would 700 feet take you?

MR. WOOD: Right into the ways of the current.

THE COMMISSIONER: Isn't 700 feet where the mouth of the intake is?

MR. WOOD: The point I want to make is, that 1,000 feet would take you past the general current of the river.

THE COMMISSIONER: Where would 700 feet take you; it would take you to the end of the intake?

MR. WOOD: The whole river is only about one-half or five-eighths of a mile wide.

ELDON WOOD, sworn, examined by THE COMMISSIONER:

Q.—In those samples which Mr. Johnson sent to Toronto, and which were disputed by Mr. Doherty, until Mr. Johnson swore that he sent them, there is one sample taken 1,000 feet from the dock, opposite George Street, which shows infection; there is another one at 500 feet which does not show infection, and another one at 700 feet, opposite George Street, which does show infection; evidence has been given by one after another that the intake is about 700 feet out there?

A.—Yes.

Q.—I gather from that—I may be wrong—that this sample which showed infection must be about the intake?

A.—I don't think it is out 700 feet; a large piece of pipe which was to have gone on the intake never went on it. The sample taken 1,000 feet from the front of the waterworks dock can be of no effect as far as Sarnia is concerned, because it goes past the general current of the river; 1,000 feet would take you past the general current of the river, and you can quite conceive that no sewage could pass through a current of five miles an hour and get over there 1,000 feet.

Q.—What about 700?

A.—I fancy all the navigation that goes up this river, goes within a space of less than 300 feet—nine-tenths of the navigation.

Q.—If there was navigation at 700 feet, would it pollute the water; you have spoken about this at 1,000 feet, and said that it could not possibly affect the water; now I ask you, what would be the possibility at 700 feet?

A.—Here is a core of water coming down at five miles an hour with an adequate pressure of five pounds to the square inch, if at 700 feet, at which they all claim they have a current of five miles an hour, if that water ran at 45 miles an hour with an adequate pressure of five pounds to the square inch, how could sewage water from the foot of Exmouth Street get into it: that is where I wanted the investigation to take hold.

Q.—Will you answer the question I ask you. Do you think there could be any infection get into the pipe, at 700 feet?

A.—I don't see how it possibly could, and my reasons are given.

Q.—Do you think there is any certainty that you can keep your pipe in good order out in that stream?

A.—No: I am not in favor of leaving the pipe there.

Q.—As a matter of fact, if that is true, your water supply is never safe, is it?

A.—Well, no, not under those conditions.

L. L. STUDOR, sworn, examined by THE COMMISSIONER.

Q.—What is your occupation, Mr. Studor?

A.—I am employed at the Cleveland Mills, as boom boss.

Q.—Do you know anything about the effect of large steamers passing up, on the logs?

A.—It does affect us, considerably.

Q.—In what way?

A.—It throws the current forward and back; sometimes we can hardly move our booms.

Q.—It raises the water?

A.—It raises the water, and gives a suction up and down.

Q.—Would that have any influence on carrying sewage out, do you think; just give me your opinion?

A.—I think it would.

Q.—Are the water conditions rather bad up in that neighbourhood?

A.—They have been bad this season, more than any other season; the water has been very low at times.

Q.—How far away would a boat be, or how near would it need to be, to have any effect on it: how far would you be away from it?

A.—About 1,800 feet.

Q.—What does it do with the logs?

A.—It draws them backward and forward.

Q.—It sucks them out, and then they come back?

A.—Yes.

Q.—Do you live at the bay shore?

A.—I do.

Q.—Where do you drain your sewage to?

A.—I don't know.

CHARLES BELL, sworn, examined by THE COMMISSIONER:

Q.—Is your occupation similar to that of the gentleman who spoke before?

A.—Just the same, only I handle the logs, putting them up the ladder.

Q.—You are familiar with conditions there?

A.—Just this fall—a short time.

Q.—Did you observe anything like what Mr. Studor has spoken about?

A.—No, I don't know that I understand that; I have not been long enough there.

Q.—You heard his evidence?

A.—Yes, sir.

Q.—Can you say whether he is correct or not?

A.—I think it is, as far as I know.

Q.—How much do you know?

A.—I don't know much about it; of course I know that when any logs come in and go out, I tote the logs; I have been there long enough for that.

JAMES MCDONALD, sworn, examined by THE COMMISSIONER:

Q.—You are employed at the same kind of work?

A.—Yes, sir.

Q.—How long have you been there?
A.—About nine years.
Q.—You are familiar with conditions there?
A.—Yes, sir.
Q.—What do you say about Mr. Studor's evidence?
A.—Well, it is about as near right as I can get it. These logs have all kinds of dirt in there. You can go down to-day and break the ice and roll one of the logs over, and it will be fifteen minutes before you can see the bottom, in 18 inches of water.
Q.—From your observations do you think that any of that water could get into the town supply?
A.—I don't see why it could not.

William A. Brown, sworn, examined by The Commissioner:
Q.—What is your occupation?
A.—I deal in ice and coal, fishing also on the lake shore.
Q.—In that way you are familiar with the river, are you?
A.—Yes, for a great number of years.
Q.—Where do you take the ice supply?
A.—Down here about the centre of the city.
Q.—Below the intake?
A.—No.
Q.—Below the sewage?
A.—Just above the intake.
Q.—Above both intake and sewage?
A.—Yes, sir.
Q.—Have you taken the ice this year?
A.—Yes, sir.
Q.—How thick is it?
A.—I should judge about 16 or 17 inches.
Q.—It was frozen very quickly this season?
A.—Yes.
Q.—Do you recollect when the bay froze over?
A.—I think some time about the—quite early in January.
Q.—Do you know anything about the irregular currents in this river?
A.—Well, I cannot say that I have noticed them; I have heard people speak of them. There might be something in it.
Q.—What do you say about the character of the water supply here: are you satisfied with it?
A.—That is a hard question for me to answer.
Q.—Perhaps you heard some of the evidence about the quality of the water?
A.—Yes, I did.
Q.—You heard the reports of the bacteriologist?
A.—Yes.
Q.—You have heard that evidence and what the doctors say about it; now what is your opinion?
A.—I have followed up the testimony in the paper. It kind of mixes a person's mind up.

Q.—But this is all sworn evidence to-day; you would trust what they say on oath?

A.—Having something to do with typhoid in our home, I never could blame the water for it. But still, I am not an expert.

Q.—What did you blame for it?

A.—At that particular time, some few years ago, I blamed the unsanitary conditions near by us.

Q.—It was not lately?

A.—No, some years ago.

Q.—You have heard to-day that unsanitary conditions will not cause typhoid fever, in themselves?

A.—Yes. I am not prepared to admit that.

Q.—I do not suppose anybody would deny that if excreta were thrown out from typhoid patients, and flies carried it to food, it would carry a fever?

A.—No.

Q.—But I want to get at the cause of the present epidemic.

A.—I suppose.

Q.—You are satisfied there was an epidemic?

A.—Yes, sir.

Q.—It is not a very pleasant thing to have in one's house?

A.—No, sir.

Q.—If the water supply is at fault, you would like to see it brought from some place else?

A.—If we can find a better place.

Q.—You could not find a much worse one than we have heard to-day—if the water is at fault?

A.—Yes, if the water is at fault.

Q.—You have heard the evidence that it was polluted?

A.—Yes. We talk about Christina street, the longest street in the city, and only one case on it, and up near my home, two streets close by, 16 or 18 cases.

Q.—Did you see the map we have here?

A.—No.

Q.—We have a map showing where these cases are situated, which might enlighten your mind a little if you saw it; however, the map shows that the cases are pretty well distributed, just come close, so that you can see it; these are marked by the doctors who had the cases, the blue marks show the cases which occurred in November and December, and the red, the cases which occurred earlier in the year?

A.—Yes, it does.

D. M. Morrison, sworn, examined by The Commissioner:

Q.—You helped Dr. Bell make an investigation of some cases?

A.—Yes, sir.

Q.—The records you handed in to Dr. Bell would be correct?

A.—They would be correct so far as I know.

Q.—They would be correct; how did you find the sanitary conditions of the houses?

A.—The sanitary conditions of the houses in the 23 or 24 I went through were all, as I considered, good, well-kept, clean and respectable, as far as I know,

only in one case where there were nine people in a small house with two small rooms in it; that was the only place where it looked over-crowded; but all the places I visited were apparently clean and well-kept, and sanitary in every way.

Q.—Do you recollect if any of them had more than one case in a house?

A.—There was one place where there were two children. Most of the cases I had were school children, from five to fifteen years of age.

Q.—And only one place where there was more than one case?

A.—Only one place.

Q.—And they occurred nearly at the same time?

A.—Nearly at the same time, and those two children were visiting with their mother at their grandfather's place, and their grandfather was sick with the fever, within a few miles of the town, and it looked to me as if they had contracted the disease there.

Q.—Did all the other cases you examined indicate that they were two cases?

A.—There was nothing that we could attribute it to, unless the water; we could not think of anything else; there were very few complaints, one or two cases, where some of the people said the condition of their neighbors' yards were not what they would like, outside of water closets and that sort of thing. There were only four of them actually in bed at the time; they were nearly all well and around, and able to get about.

Q.—They were returned by the doctors as having had it?

A.—Yes. One of them had been four or five weeks in the hospital, but was home and getting along all right.

JOHN GARROCH, sworn, examined by THE COMMISSIONER:

Q.—You are employed in somewhat similar work to that of the witness, Mr. Ross?

A.—Yes.

Q.—How many histories did you get?

A.—Twenty-nine, I think.

Q.—How did you find the sanitary conditions?

A.—Good, all except in one case.

Q.—The list you returned to Dr. Bell would be correct?

A.—Yes.

Q.—Giving the information you received?

A.—Yes.

ROBERT MCADAMS, sworn, examined by THE COMMISSIONER:

Q.—You have been, I understand, Harbour Master here a long time?

A.—Yes.

Q.—How many years?

A.—About thirty, I think; I am not quite sure.

Q.—You have had good opportunities to be conversant with the water conditions here?

A.—Fairly.

Q.—Do you know anything about the currents that have been referred to to-day, in the bay?

A.—I did not hear what was referred to.

Q.—It is said there are currents that come up along the shore line and carry the sewage out towards the intake?

A.—As carrying sewage, I cannot say, but as to the currents along the shore line, that is correct.

Q.—Where do they come from?

A.—My attention was called to them shortly after I was appointed harbour master, by the peculiar condition of the levels in the bay at various times, and I talked the matter over with a gentleman from the Department, who came up, and after that, I made some little observations of it; he was interested in the matter; he had made some study of the various levels in the lake, and he asked me to note such information as I had, and such differences as I might notice. There are at times quite well defined currents on some occasions setting up along the shore from the south towards the north and into the bay, and at other times equally well-defined currents setting downward. My explanation of it is this—that a strong north wind causes a piling up of the waters of Lake Huron at the south end of the lake, and that has the effect of raising the levels along the south shore of the lake, on the southern part of the lake, by at least fifteen or eighteen inches, and at times possibly more.

The effect is to correspondingly raise the surface of the river; the surface of the river rises to correspond with the surface of the lake, the bay being an inlet and subject to no current. When the water of the river is higher than the water in the bay, there must be an inflow from the river into the bay, to establish an equilibrium, and that inflow is made all along the shore, according to my observation—I don't know how far out, but it is well-defined along the shore.

The converse action follows when the water in the lake resumes its normal level, the bay will be higher, and that causes an outflow from the bay into the river.

Q.—It is admitted, I think, that the bay has been polluted for years back?

A.—Much worse than at first.

Q.—Would it be possible for sewage to be carried from the bay out towards the intake?

A.—Yes. I remember on one particular occasion the action of which I spoke caused a rise of about 30 inches in the level of the bay; following that there would have to be a very heavy outflow to establish the equilibrium when the water fell, and in that case almost the whole surface of the bay would be carried out, because 30 inches would be a very large body of water.

Q.—That occurs any time there is a strong south wind?

A.—Any time there is a strong south wind. A strong south wind tends to lower the water in the lake, and a strong north wind to raise it. The north wind pulls it down, and the south wind blows it back. As I say, my observation has been that with an ordinary wind there is a difference of twelve to fifteen inches, but I can say that on one occasion certainly I saw a difference of thirty inches; and I have been told, although I did not observe it myself, that the water in the bay was raised to three feet.

The heavier and longer continued the north wind is, the more it will pile the water in the bay; the level of the river must rise, because there must be the inflow from the bay to establish an equilibrium, and when the change in wind follows the

level of the lake sinks back to its normal condition, and again there must be the outflow from the bay to establish the equilibrium.

Q.—All that would mean that the intake is in danger of being polluted, when you have those particular winds?

A.—I could not say as to that. What I say is, that it establishes inward and outward currents into the bay. At one stage there must be an inward current into the bay, and at another stage an equally forcible out-current.

Q.—You know the situation, and what is your opinion as to the chance of a pollution of the intake pipe by bad water under these conditions?

A.—I should say there was a very fair chance of a pollution.

Q.—As harbour master, do you know of any regulation which would prevent a captain throwing his anchor in the neighbourhood of the intake?

A.—There are none that I know of.

Q.—There could not be any, as a matter of fact?

A.—There could not be any. The only regulations that are in force in this harbour bearing upon any matter of that kind are regulations forbidding captains from discharging ashes, or debris of that kind, from their vessels into the water of the harbour. Of course, a bay is not specified, but there is no regulation in the Harbour Masters' Act preventing them anchoring anywhere they can.

Q.—Is there any act to prevent them throwing the contents of their water closets into the bay?

A.—No, ashes and solid matter which would obstruct navigation. The only regulation that applies is, that captains are debarred from emptying ashes, stone or broken bricks which would obstruct, or make a solid obstruction in the river and interfere with navigation.

Q.—I suppose there are boats passing down with 1,000 people on board?

A.—Yes.

Q.—There would be a lot of sewage from those boats?

A.—Yes.

Q.—Wouldn't there be some possibility of the intake being polluted from that?

A.—There would be, and the more so of late years than before, because every year the dimensions of the vessels which ply these lakes are larger, that is, vessels ply the river which are three times the tonnage as when I was first appointed.

Q.—In your opinion is the present water supply ever absolutely safe?

A.—I would not say that it was.

Q.—In the light of what you have seen in past years here, so much typhoid fever, would you go so far as to say it was absolutely unsafe?

A.—I am not a professional man and I could not say.

Q.—Anyway, you are not satisfied that it is safe?

A.—No. The point you mention as to the vessels becoming more and more important every year, I may say that the dimensions of the vessels are so much larger than in former years, and the power so much greater, that the effect of any of the larger class of vessels, such as the "Northwest," or the "Northland" going up this stream, is to make a variation in the level of the whole surface of the river of fifteen or eighteen inches.

Q.—By the suction?

A.—By the suction. It would appear to me that the effect of that would be to churn up the whole body of water in the river.

It is a matter of common notoriety to all persons that when such vessels as the "Northland" goes up, there is an indraft by the screw of that vessel which

draws the water from the shore 15 inches in depth, and as she passes there a reflex wave of equal height comes back, and it is quite a natural supposition that the effect of that would be to churn up the whole body of water from shore to shore. That is a condition which did not exist years ago, but which is now increasing year by year by the greater frequency of the passage and the greater size and power of the vessels.

Q.—If it were thought advisable to establish a purification plant, or a filtration plant, for water, is there room in the neighbourhood of the present waterworks?

A.—Not that I know of. It is all city property, and close to the centre.

Q.—Are the water works in a safe position in respect of fire?

A.—No; in the case of one fire we had here, the King Mill Lougheed plant, there was a very close call for the water works as they then stood: in fact, for half an hour or so it was a question whether the waterworks would be saved or not.

Q.—In view of the churning up of the water, knowing that the bay is dirty, will you say now, whether, in your opinion, the water is safe or not; even though you are not a professional man, you have an opinion upon that?

A.—An opinion is not evidence.

Q.—Yes, it is evidence, reasoning on what you have said:

A.—So far as my opinion goes, I would rather have it from somewhere else.

Q.—Do you know anything about the suction of logs at the mills?

A.—No, I know nothing of that; that never came within my observation.

Mr. George Brown: Q.—What time was it the water raised so very high and then lowered in the river; was that some time in August, or the beginning of September?

A.—It was in August.

Q.—The reason I asked that question is that I was standing on Black River Bridge and there was a very sudden change, and the water was running four or five miles an hour up stream in Black River, pure, clear river water ran up the river, and in less than an hour the current was running down the stream so strong that the ferry boat could not turn around, and a little later on one of the ferry boats had to make a trip to Butler street dock on account of the current out of Black River?

A.—It so happened that I was at Port Huron that day, and the very same consequence followed. This particular occasion is the only one I am prepared to testify about, because it is the only one I happened to have observed, and on that occasion it was a blue water in Black River above the bridge.

Alexander Kelly, sworn, examined by The Commissioner:

Q.—What business are you in here?

A.—I am not in business here. I sold out a year ago. I used to be in the confectionery business.

Q.—You have been a resident here for some length of time?

A.—A good many years.

Q.—Are you familiar with the river?

A.—Well, I think so.

Q.—I am anxious to get some information as to whether there will be any possibility, from irregular currents or winds or anything of that kind, that pollu-

tion would be carried out in the neighbourhood of the intake; could you say anything about that?

A.—Well, it is a pretty critical question to answer, but there is certainly in my opinion a possibility of it.

Q.—Mr. MacAdams, the harbour master, and Mr. Brown of the International Ferry, have both given evidence as to the effect of winds raising and lowering the water in the river, and of course if it does that the changes will carry water out to the bay, and they point out that they have observed these conditions; if that is so, are you of opinion that it might carry polluted water out of the bay?

A.—Yes: I have had that opinion since they moved the middle ground; they had the middle ground in the middle of the river, a mile long and half a mile wide, some places only eight, ten or twelve feet, or fifteen feet; river boats could not pass over it, but would go on either side of it, and they commenced dredging that away five years ago, and entirely removed it to the depth of twenty or twenty-five feet; they also removed the middle ground up here at the south end of the Point. Previous to that time, to the best of my knowledge, the eddy never came down any further than Clark's dock, that is, just south of Lochiel Street. After certain conditions of the currents which would be caused by the "Northwest," or the "Northland," the rise and fall of the water in the river, the currents in the river would be a good deal stronger than at other times, that the wind from the south was affecting Lake Erie and would carry it up in the river and form it in the bay.

Q.—Have you ever observed the change in the waters from the winds?

A.—I might say that one particular time about a year and a half ago I was on one of the ferry boats.

Q.—What effect would the suction of the large boats have on the water of the river or bay to pull out the polluted waters?

A.—The "Northwest" and "Northland," I think, would agitate the bay, and affect it.

Q.—If it did stir it up, do you think there would be a liability to pollute the water about the intake?

A.—If there is pollution there.

Q.—It is admitted that the bay is polluted.

A.—Yes, sir; but whether it extends out that far or not, I do not know.

Q.—The Harbour Master has told us that there is no regulation to prevent a boat anchoring any place in the stream; in that case the intake is always in danger?

A.—No doubt of that.

Q.—Knowing all that, do you think it is safe to take the water from, in view of the fact that pollution may be taken out by currents and winds, the intake broken by an anchor?

A.—An accident is liable to take place at any time in a fog.

Q.—Do you think it is safe?

A.—Not at all; if the water was perfectly pure the intake pipe is not in a safe place.

Q.—There would be a good deal of sewage from those large boats?

A.—In passing up and down?

Q.—Yes.

A.—The boats on the lake going up and down?

Q.—Yes. Like the "Hamonic" and those large boats, that carry a large number of passengers—there is always a lot of sewage dropping from them?

A.—I suppose so.

Q.—You get 1,000 people on a boat?

A.—Well, they are not on the boat very long at a time, in a harbour; just an hour or two, and off they go.

Q.—But every boat is dropping more or less sewage as it goes along?

A.—Yes.

Q.—There might not be a great deal of danger from that, but possibly there might be some?

A.—Yes.

Mr. George Brown: Q.—Did you have anything to do with the laying of the intake pipe at the time it was laid?

A.—No; I was not in the Council.

Q.—You understand it is in 30-foot lengths?

A.—Yes, I understood so.

Q.—And the ground underneath that pipe is uneven?

A.—Yes.

Q.—Are there any ball joints in connection with it?

A.—I believe there are three ball joints.

Q.—Would those ball joints cover the unevenness of the ground?

A.—From the plans—somebody should have a copy here—you understand it is piled all the way out, and the length is laid in chains, and a ball at every thirty feet, I think.

Q.—Have you any guarantee that there was a place where that pipe was to lay, that was level?

A.—I don't think so, on the bottom, at any time when it first went down.

Q.—It was suspended from pole to pole?

A.—Yes, I think so.

Q.—There were twenty bolts at each joint?

A.—I think so; something of that kind.

Q.—And three ball joints?

A.—Yes.

Q.—Do you think it is possible to get those joints tight, so that there will be no leakage from the bed of the river, so that there will be no leakage of any kind whatever?

A.—Do I think so?

Q.—Yes.

A.—I don't know; I understand these pipes were put together on land, put together and bulkheaded and holes bored in the end, and sunk down to position.

Q.—Those are supposed to hold the weight of the pipes; the moment that pipe would settle at one point, there would be a leakage—if the pipe was settling into position?

A.—No doubt about that.

Q.—How were they tested, if at all?

A.—I don't know anything about that.

Q.—Have they ever been tested since, to see whether there is any leakage in them or not?

A.—I am not a machinist. The only testing I know of is the pipe being examined about three years ago, that there was a diver engaged, by the name of McCullough, and he went down first at the dock and found the pipe completely

submerged for 300 feet out; he found the pipe all right, but it was covered for 300 feet out. I was trying to find the description we got at that time; he drew up a rough sketch of it. He first drew a sketch of the pipe, on the road, and then went inside and put it on paper, and the pipe showed up for about 150 feet, one length on this side of the strainer; he could only get his foot under it. He gave us an account of the pipe being in good condition, at the time.

THE COMMISSIONER: Q.—It may have been, and may not?

A.—It may have been, and may not.

Q.—I don't know that anybody questions the position of it now, because he makes an affidavit.

A.—Mr. Myers' account of the pipe in its present condition is a truthful one; the Toronto diver simply went down at the strainer, and then came along a few feet, and lost it.

Q.—Have you a copy of the report?

A.—A copy of it was taken; it could not have been seen until after the Toronto diver had done his work.

Q.—Could you let me have that?

A.—Yes, sir. (Handed to the Commissioner).

DR. THOMAS BRADLEY, sworn, examined by THE COMMISSIONER:

Q.—A number of cases of typhoid fever have been reported by you during the past couple of months; do you recollect the number you had?

A.—Yes, pretty nearly, but not exactly; probably ten or twelve.

Q.—Whatever report you gave to Dr. Bell would be correct?

A.—I think so.

Q.—You were satisfied they were cases of typhoid fever?

A.—Yes, sir.

Q.—There have been reported 151 cases for last year; do you think that is a large number for a place of this size?

A.—Yes, it is.

Q.—And 14 deaths; do you think that is a large death rate?

A.—Yes, that is a large death rate.

Q.—It was questioned here to-day that it was not fair to compare the death rate here with the death rate in other places, because people come here having contracted fever in other places, but dying here; but that is true with respect to pretty nearly every place?

A.—Not so much as here.

Q.—Wouldn't it be just as true with respect to places like Windsor and Toronto?

A.—Yes.

Q.—That is about the only way of comparing places?

A.—That is about the only way.

Q.—Chatham has a much lower death rate, and a much lower number of cases;

1909	19
1910	28
1911	19

and in all of those there were only four deaths, so that that would show that Sarnia is a worse place for typhoid than Chatham, wouldn't it?

A.—Yes; you would think so, from those figures.

Q.—I am prepared to say this, that at some places there is not any typhoid fever; Petrolea has had only one death in ten years, in 1907.

A.—I think we have a larger proportion of outsiders come into town afflicted with typhoid fever than other places, in proportion to the size.

Q.—Take that list before you and look at the last page of it; you see the cases that are headed Sarnia Town Cases?

A.—Is there not a large proportion of outside cases there?

Q.—No.

A.—I see one list marked Town Cases, and another list marked Outside Cases.

Q.—Just refer to the town cases; the lady who took the list gave her evidence, to the effect that it was correct; taking those alone, if you had no others, isn't that a large rate?

A.—Yes, it is a large rate, all right.

Q.—You admit that there were more than those in every one of those years?

A.—Those are the number of actual cases treated here?

Q.—In the hospital alone; there must be general cases besides those; for instance, there were 59 cases treated in the hospital out of a total of 151, and some medical men gave evidence here to-day to show that the outside cases were two to the hospital's one; what would you think about that—that two cases would be treated in the homes of the people to one in the hospital?

A.—I think that is a little large.

Q.—What would you say about your own cases; how many cases would you have in the hospital, and how many outside, of your twelve?

A.—Well, probably I had them about half and half.

Q.—Then it is fair to assume I suppose that out of the town cases there would be twice as many at least?

A.—I think probably there would be.

Q.—It looks here as if you had typhoid in an epidemic condition here for years, from that, doesn't it?

A.—Yes, it looks as if we had had too many cases, all right.

Q.—Have you any opinion as to what was the cause of it?

A.—To my mind, I have no doubt in the world that there was polluted water from the bay.

Q.—A gentleman here to-day would only admit that about everything else under the sun was the cause of typhoid fever except water; he said it was due to exhalations from the sewers, from the unsanitary conditions, from sewer gas, excess in eating, and improper dwelling houses; what would you say about that?

A.—I would say it was just another example of a man talking about something he did not know anything about.

Q.—He asserted too, that he had found authorities—he was not able to give any authorities to support him; at least he said that Koch made the assertion, and Hoektoen; if they had, I never heard of it; have you ever heard of it?

A.—No, I have never heard of it.

Q.—Is it not understood among medical men that one has to swallow the typhoid bacilli, to get typhoid?

A.—Quite so.

Q.—Then will you ever have a safe water supply, with the intake put where it is?

A.—I don't think we have ever got the water; judging from the statistics, we have got the water for more than a season, or two, at the channel.

Q.—You mean the intake was broken early in its history?

A.—Yes, from the facts I have been able to gather off-hand as to the condition of the pipes, and all that.

Q.—Look at the year 1905, and you will see that instead of the intake improving the water supply, it has been getting worse?

A.—The pollution of the bay may have been getting worse, in the meantime.

Q.—The point I think is fairly reasonable, that there are no regulations to prevent a boat anchoring any place, and no matter how you repair the intake, if you put it out there you may chance to get it torn out at any time; isn't that the fact?

A.—I understand that the Dominion Government has control of navigation.

Q.—Captain Foote told us he would be careful not to throw an anchor there, unless to avoid a collision.

A.—Then it is a condition that the government should remedy.

Q.—To prevent them throwing their anchors?

A.—To protect any pipe of that kind supplying a town with water.

Q.—I really do not know whether the Dominion Government could make laws governing a question like that, without the acquiescence of the country on the other side of the river.

What do you think about that, Mr. McAdams?

Mr. McAdams: It cannot be done, for this reason, that the Captain has to consider the safety of his vessel first of all, and as the doctor will understand, vessels coming up stream making the bend at the elevators, something may chance to go wrong, and there is a danger usually going up into the bay, and the Captain is not going to take that risk if his anchor is going to hold the boat; there is no regulation under the Harbor Masters Act that would allow him to do so. The point is that under ordinary circumstances no man would anchor so close to the neighborhood of that pipe, but if a steering gear goes wrong, and the boat runs wild, and it is a case of running into the wharves if that accident should happen, the captain's first duty is to save his vessel, and throw out his anchor wherever he can, and if a water pipe happens to be in the way, so much the worse for the water pipe. The captain is not going to lose his vessel for the sake of saving a pipe.

Then in regard to the currents up in the bay, and out of it, caused by vessels, I remember that the first run the "Northland" made, she ran down on her trial trip under much higher speed than she was allowed to use thereafter: and in passing up or down the river, if my recollection is correct, she caused such a current or swell into the bay that a schooner lying at a wharf was thrown up on the wharf, and I remember further that the owner of the schooner collected damages from the owners of the "Northland" by reason of the vessel being thrown up on the wharf.

The Commissioner: Q.—The epidemic is subsiding now, Dr. Bradley?

A.—There are not so many cases.

Q.—What would you say was the cause of it, or are there various causes?

A.—We know that in all epidemics they subside in a little time, irrespective of anything we appear to be able to do; they run in cycles, very often. In this

case, I believe the precautions that have been taken have been effectual to some extent at least.

Q.—You think it was a proper thing for the council to do, in establishing the chlorinating plant?

A.—If there is any virtue in that way of treating the water, I certainly do.

Q.—We have the evidence of the men who know all about it, who say that it is.

A.—Yes, it is.

Q.—We have had explanations of how it acts, and that there is no injury from the chlorine; what could you say about cases occurring in the same house?

A.—You mean, as to the contagion?

Q.—I am trying to get at the idea whether there would be contact cases in your practice, in this present instance?

A.—Yes, I believe I have seen it where it was due to careless nursing, and inexperienced nursing.

Q.—What would you say about the general sanitary conditions of the town?

A.—The general sanitary conditions of the town compare favorably with most other towns of this size.

Q.—You are satisfied that no matter what they are they did not cause the chief epidemic?

A.—I am satisfied with that, in my own mind.

Q.—And you are of opinion that those who scout the idea of an epidemic, or scout the idea of the cause, are wrong?

A.—I think they are wrong.

Mr. George Brown: Mr. McAdams made the statement that the "Northwest" and the "Northland" were not allowed to run fast after that trial trip he spoke of; have you any special authority for stating that there is a law to prevent them running faster?

Mr. McAdams: I did not say that they were debarred from running faster; I said they were not allowed to run so fast by the management. The first trip or the first couple of trips the "Northwest" had, she did so much damage and the company had such heavy bills to pay, for wrecking boat houses, and throwing schooners up on wharves, and all that sort of thing that by the action of the management they were barred from running up and down the river so fast, and they have never equalled their first speed since. I think my recollection is quite clear, that in the case I speak of, and in other cases up and down the river, that boats, yawls, and motor boats, and all that sort of thing were thrown up on the wharves; in fact some fishermen lost their boats.

Mr. Brown: Q.—You actually know of individuals collecting money from the Navigation Company?

A.—I was told so. When the boat was thrown up on the dock, our company wrote the management of the Anchor Line Transportation Company, and the answer he got back was that they had instructed their captains not to run so fast going past Sarnia, but that there was no law in existence to compel them to run any slower. I did not say that there was no law to compel them to run any slower, but it was by their own management.

Dr. Bradley: Q.—Do I understand you to say that the boat can go up in that bay anywhere and throw its anchor out irrespective of any intake pipe, knowing that that intake pipe is in a certain place, and take chances of tearing it up?

A.—So far as anything in this port is concerned, there is nothing to prevent a captain throwing his anchor, irrespective of any water pipe in the bottom of that river.

Q.—But a vessel merely running up into the bay, they knowing that that pipe is there, have a right to throw their anchor out anywhere they like, irrespective of an intake pipe being near there, and knowing it is there?

A.—How far a municipal regulation could control that, I cannot say; but there is nothing in the Harbor Masters Act to prevent them doing that.

Q.—So a town just has to put up with the consequences?

A.—Yes.

THE COMMISSIONER: Q.—To-day we had the evidence of Captain Foote, and he said that if this instance occurred—if there was danger of collision, and he thought he could throw his anchor to save his vessel and the people on it, that he would certainly do so, but otherwise he said he would always take care, but that lots of captains coming up did not know of the intake at all.

DR. BRADLEY: But there would be nothing to prevent him throwing out the anchor and tearing up an intake?

THE COMMISSIONER: No.

MR. REID: Q.—Have you as harbor master ever notified the company that an intake pipe is there?

A.—I have never done that. They understand the regulations governing this port, which the harbor master is supposed to execute, makes recognition of nothing but to ply navigation in the port, to keep the way clear for navigation, to see to the removal of obstructions, and to prevent captains from discharging matters into the harbor which might interfere with the harbor, or anything of that kind; but so far as the passage of vessels from one part of the harbor to another is concerned, the captains have a right to the navigation, and to protect their vessels as best they can, and there is nothing in the regulations which says that they must guard against any artificial construction such as a water pipe in the bed of a river.

(Adjourned at 5.45 p.m. until 10 o'clock a.m. Tuesday.)

Resumed Tuesday, January 30th, 1912, at 10 a.m.

GEORGE P. FRANCE, sworn, examined by THE COMMISSIONER:

Q.—Mr. France, I understand you are a chemist?

A.—Yes, sir.

Q.—You are employed as such?

A.—Yes.

Q.—Where?

A.—At the Imperial Oil Company.

Q.—Have you had experience and training in the office of Hazen & Whipple, Engineers, of New York?

A.—Yes, sir.

Q.—How long have you been engaged at this kind of work?

A.—In chemical work?

Q.—Yes?

A.—Five years.

Q.—I understand you made some examinations of the water of the river?

A.—Yes, sir.

Q.—From which the supply is taken?

A.—Yes, sir.

Q.—What do you say about the contamination of the river?

A.—From the experiments I have performed, I would say that from time to time the water has been polluted.

Q.—Over a period of how long have you made those tests?

A.—Over a period of a little over two years.

Q.—Beginning in July 1909?

A.—I think that was about the date.

Q.—These tests were made according to what standard methods?

A.—The United States standard methods of water analysis.

Q.—Did you make duplicates of them?

A.—Yes, sir.

Q.—I understand that about 75 per cent. of the tests you made showed coli communi?

A.—Yes.

Q.—What is the significance of the colon bacillus?

A.—It simply shows the presence of sewage.

Q.—Then it would mean that in 75 per cent. of the tests you made, such pollution of the waters was shown?

A.—They were present.

Q.—I noticed that in a test you made on the 12th of June—7-12—does that mean the 7th month?

A.—July, the 7th month.

Q.—On the 12th of July you took a sample from the boat house waters?

A.—Yes, sir.

Q.—And they showed the colon bacillus?

A.—Yes, sir.

Q.—On the same date you took one from the city tap, which also showed some colon bacilli?

A.—Yes, sir.

Q.—You took one from Clark's dock, which showed the same?

A.—Yes, sir.

Q.—That was when?

A.—October 15th.

Q.—Then on December 9th you took one from Clark's dock, which showed colon bacilli?

A.—Yes.

Q.—And one from a city tap which also showed colon bacilli?

A.—Yes, sir.

Q.—Whereabout is the boat-house where you got the contaminated sample?

A.—800 feet above the water-works; as near as I can judge, it would be about 800 feet.

Q.—There is something I want made clear, and it is this: when you speak of an examination of this water, it is always water from the river, it is not water from the Imperial Oil Company's own taps?

A.—No, sir; from the taps of the city's plant.

Q.—One day you got a good sample; what was the condition of the water?

A.—I usually aimed to get a sample, myself, based on my own theories; when the water was riley—showed turbidity.

Q.—One day you got a fair or a good sample; had the weather been calm and quiet for a few days?

A.—I could not say as to that, on those particular days.

Q.—If there is a south wind for a day or two, what is the condition of the water?

A.—Usually riley—quite riley, and a low level.

Q.—Do you take water for the Company's employees from the city supply?

A.—All drinking taps in the refinery are from the city supply.

Q.—But you have some water supply of your own?

A.—Yes, sir.

Q.—Your employees use that?

A.—Yes, sir.

Q.—Under your direction?

A.—Yes, sir.

Q.—You are pretty well acquainted with the river, I presume?

A.—I have been boating on it regularly for the last couple of years, or three years.

Q.—Do you know anything about currents?

A.—I have noticed some things about currents.

Q.—What would you say about that?

A.—In what location do you refer to?

Q.—What would you say about any currents which carry sewage from Cromwell Street up towards your boat-house?

A.—I noticed a number of times that there is a back current, setting in from Cromwell Street up back of Clark's dock; I have noticed different articles of wreckage, or boards, or things of that kind floating clear up past Clark's dock and into the bay; I have seen things go up from my boat-house or office and drift, not down the river, but up into the bay.

Q.—What would the significance of that be, respecting the water supply, in your opinion?

A.—In my opinion it would show that the eddy currents might possibly bring sewage from the Cromwell Street sewer up towards the bay.

Q.—Then I understand that in only one month since July you found it free from colon bacilli?

A.—Only one month, in which I have a record of the tests made.

Q.—Are you familiar with the rise and fall of the water when the large boats pass up or down the river—any suction?

A.—I have observed it several times.

Q.—What would be the effect of that?

A.—I think that would be a question that an engineer would answer better than I would; I have noticed numbers of swells, and so forth.

Q.—I do not want to tie you down to say what it would absolutely mean; but you have some opinion about it?

A.—Yes.

Q.—What is that?

A.—My opinion is that the large boats draw large currents of water after them, and create currents towards the bay.

Q.—The effect of that would be, what?

A.—To rile up the bottom and drag any sewage which might be present up along with it, and up into the bay.

Q.—In the situation of the intake, is there anything you know of to guard it against being broken by a vessel anchoring; what I mean is this—I understand that a boat may throw its anchor any place along that stream; if that is the case, would there not always be danger to the intake?

A.—There would, yes, sir.

Q.—It was made clear yesterday by the harbour master and others that there are no regulations to prevent any boat throwing its anchor any place the captain may desire; if that is true (as of course it is, as there are no regulations preventing it) it would mean that the intake, put out there at any place, would always be in danger?

A.—Yes, sir.

Q.—Then from your examinations of the waters, and your knowledge of them, do you think that that is a safe water supply?

A.—I do not.

Mr. George Brown: Q.—Did I understand you to say that it was during a south wind that the water in the river became riley?

A.—I said I had often seen it riley, with a south wind.

Q.—Would a north wind not be the most apt to make it riley?

A.—I could not say as to that; it would probably rile it up.

Henry A. McLean, sworn, examined by The Commissioner.

Q.—Mr. McLean, you are Engineer of the Town of Sarnia?

A.—Yes.

Q.—You had something to do with the installation of the present chlorination plant?

A.—Yes.

Q.—How is it working?

A.—I just saw one report. Do you mean the mechanical working?

Q.—What general satisfaction is it giving; is it working satisfactorily to you?

A.—As far as the mechanical part is concerned.

Q.—What proportion of hypochlorite of lime are you using?

A.—.3 parts per million.

Q.—.3 parts of available chlorine?

A.—Yes.

Q.—That is only one-third?

A.—Yes, sir.

Q.—Have you any copies of correspondence, or anything bearing on the character of the water?

A.—I had a test of the water before chlorinating, and after chlorinating.

Q.—Who made that test?

A.—To see if it was sufficiently treated with chlorine, to annihilate the bacteria.

Q.—What did you find as a result of that?

A.—I found that it was sufficiently chlorinated.

Q.—Then you think the quantity you are using is not too small and that it is not too great?

A.—Well, since chlorinating I have only had access to one report, and I think the chlorinating is a little too great at present.

Q.—You can easily regulate that?

A.—I could regulate it, yes.

Q.—Have you sent any samples of water to be examined, at any time, to any place?

A.—I sent samples of water to the Provincial Analyst, and I sent samples of water to Dr. Vaughan at Ann Arbor.

Q.—Have you copies of the reports?

A.—No.

Q.—Have you not any copies of the reports you received from Dr. Vaughan?

A.—No, sir.

Q.—I understand you had.

A.—They are in the possession of the Board of Health.

Q.—Who is Chairman of the Board of Health?

A.—Well, I believe they had a meeting recently, I don't know who is chairman now. Dr. Colter was chairman.

Q.—Have you any correspondence with Dr. Vaughan?

A.—I may have, I am not sure.

Q.—Have you any correspondence relating to the purity of the water, with any one?

A.—I think I have a telegram from Dr. Vaughan regarding the chlorinating, and I may have a letter from Dr. Vaughan.

Q.—How recently have you had those reports in your possession you speak of, and which you say the Board of Health has now?

A.—I had them this morning.

Q.—Why don't you produce them here as you were ordered to by subpœna?

A.—They were not mine to produce.

Q.—You were ordered to produce all documents that were in your possession relating to this matter. You had a subpœna served on you in plenty of time; you had two subpoenas served upon you, because you claimed you had not received the first one?

A.—Yes.

Q.—Why did you not produce them?

A.—The papers were not in my possession.

Q.—I want you to get those papers and produce them here. I will excuse you now, but will expect you to be back here in half an hour with the papers. When I saw you this morning, you told me you had not received the first subpoena, which was left at your house?

A.—Yes.

Q.—You had evidently seen it, because you told me you had the City Solicitor's advice about it; did you see that first subpoena?

A.—Not about that, Doctor.

Q.—Did you see the first subpoena; did your wife not give you the first subpoena?

A.—No.

Q.—Did you not see it at all—you are on your oath?

A.—I saw a paper lying on the table, and she told me that Mr. Acton had left it for me, but she did not tell me what it was.

Q.—But you saw the one I served you with this morning?

A.—Yes.

Q.—You told me when you were in your office that you had the documents?

A.—Yes.

Q.—And in the face of the subpoena I served upon you you omitted to bring those documents?

A.—I said I did not feel I should be called upon to produce those papers.

Q.—I don't care how you feel. Just listen to me. On this investigation,

> "The secretary, or any member of the board present at the investigation, may administer the oath; and the said investigating committee shall have power, by warrant under the hand and seal of any one of its members, to call upon any person to give evidence, regarding any matter in question in the investigation; and the investigation committee shall have all the power which may be conferred upon commissioners under The Act respecting Inquiries concerning Public Matters."

Before I came to the investigation I consulted the Deputy Attorney General of the Province, and asked him to define exactly what my powers were in respect of witnesses and as to what they should do, and he told me I had the same powers as any judge to compel witnesses to produce correspondence or anything else. I know my position exactly, and I know what I can do; I do not want to put you to any bother or trouble, but I want you to produce those papers, so be back here in half an hour with them. You have heard what I have had to say and you will just produce those papers or not, as you think it is wise for you to do?

A.—I asked you to get them from the proper authorities, so as not to leave me in a position that would be very undesirable for a Town Engineer to be left in.

Q.—My opinion is that the position you are taking makes you ridiculous.

A.—There is a difference of opinion about that.

The Commissioner: You have a subpoena ordering you to do so and so. Now go and do it. If you do not, I will try and see after you. (Witness left room).

John McGibbon, sworn, examined by The Commissioner.

Q.—Mr. McGibbon, you are mayor of the town?

A.—Yes, sir.

Q.—Last year you were a member of the Board of Health?

A.—No, sir.

Q.—You have here a paper in which is contained answers in your handwriting to certain questions which were sent you?

A.—Yes.

Q.—I ask you to identify them. We have had them typewritten. (Shows to witness)?

(Marked Exhibit 13).

Q.—Did you give any instruction to the engineer not to produce any papers?

A.—No, sir.

Q.—You have no objections to any correspondence in his possession being produced?

A.—No, sir.

Q.—Do you know any one who has given him any instruction in that line?

A.—No.

Q.—There could be no objections to him giving those papers?

A.—Not that I know of.

Q.—Some one has said that certain water reports from other places have been suppressed from time to time; do you know anything about that?

A.—No, sir.

Q.—In your opinion is it true?

A.—I could not say.

Q.—The only one you know who is suppressing reports just now is the engineer?

A.—I did not know that until now.

Q.—You heard what he said?

A.—Yes.

Q.—I cannot understand for the life of me why the man should refuse to produce anything of this character. I understand your council is moving in the direction of getting a better water supply?

A.—Yes, sir.

Q.—Then your council and Board of Health are satisfied that the present supply is not safe?

A.—Yes. I think the majority of them think that.

Q.—What is your own personal opinion about it?

A.—I don't think it is safe, with the present break in the intake.

Q.—Even if the intake were not broken, do you think it is safe?

A.—It is a question I would not like to answer; it is too large a question.

Q.—We have had reports from three analysts, showing that the water is not pure, that it is contaminated at certain times of the year, and we also had evidence to show that the intake cannot be protected against the anchors of boats; in view of those facts—of course you cannot be expected to know the scientific side of it—but in view of the facts I have told you of, and of what has been sworn to here, would you consider it a safe supply even with an intake of 700 feet?

A.—It is a question whether it would not be broken again in a month's time. It would not be safe, for that reason.

Q.—Do you know anything about the irregular currents and the effect of winds on the water?

A.—No, I do not.

(Letter from R. C. McAlpine, Petrolea, Ont., to Dr. J. W. S. McCullough, dated Jan. 26th, 1912, put in).

JOHNSON MCADAMS, sworn, examined by THE COMMISSIONER.

Q.—Mr. McAdams, I believe you are engaged in the publication of a newspaper here?

A.—Yes, sir.

Q.—How long have you been here?

A.—34 years.

Q.—You are familiar with the water in the river and the bay?

A.—Yes.

Q.—Are you familiar with the currents in the bay, the irregular currents that are said to exist there?

A.—Yes. For a number of years I looked after the storm signal which is located at the waterworks wharf, and had occassion on putting up storm warnings to notice the effect of changes of level on the flow of water. I noticed that with a north wind, or with a heavy flow of water there seemed at irregular times—not always, but at certain irregular times—a current back from say the King Mill wharf, along there and up past Lougheads which is above the waterworks. I don't know whether that was simply on the surface, or whether there was a large movement of water.

Q.—In your opinion, what effect did all that have upon the water supply?

A.—It was my opinion 6 years ago that with a supply close to the wharf, or taken from close to the wharf, it must, inevitably, have been contaminated with sewage from below, and for that reason I was one of several citizens who brought about an investigation of a charge that water was being pumped from a short intake at that time. The charge was proved, and the council ordered that the short intake, that is, the short intake in order of counting backwards, that that short intake should be permanently disconnected from a small pump with which it had previously been connected. My basis for objecting to that short intake, even for two hours a week, was that I thought it was contaminating our town supply. The same reasoning makes me think that those currents would have an effect of distributing sewage from the Cromwell Street outlet to a limited extent over the area of the bay. The same phenomenon has been noticed repeatedly by a number of other people.

Q.—Would all that have the result of contaminating the water supply at the present intake?

A.—300 feet out?

Q.—700 feet out?

A.—I would not say that I am positive it would do so.

Q.—But it would contaminate at the break?

A.—It would contaminate at the break; and under certain conditions I think there would be a liability, if that current goes up there, that a certain amount of it might circle around at the bay, and come back on the outer edge, although of course diminishing in volume as it did so.

Q.—There was evidence given by Mr. Brown, of the International Ferry, and also by your father, in respect of the rise and fall of the waters in the stream and bay, and also in respect of suction caused by boats; do you know anything about that?

A.—No, practically nothing, except what we have all observed, that a large steamer going north for instance creates a great draught, and that the Detroit boats coming in the afternoon and evening pass over the outlet of the sewer and sweep onwards pretty nearly over the intake; whether they would carry any sewage in the wake, of course I am not prepared to say.

Q.—Even if you were sure that the intake is all right, would you say that it is in danger from boats anchoring?

A.—I have asked what protection we have from boats anchoring, and I have been informed that the protection must be effected by the municipality. I don't know whether that is correct or not; that is, in putting an intake out into the river or out into the lake, the municipality is supposed to safeguard it by concrete construction or Lackawanna steel palings, jointed ironwork, or that sort of construction, and I assume that means that the municipality has to look after itself. The danger from boats running up into the bay is always present but not a very great danger. Boats come up fairly close to the ferry landing, and sweep out and around, some of them, and a wrong course would result in them coming up pretty close into the bay. In the case of the collision a while ago of the steamer "City of Genoa," I noticed that the steamer which had collided with her was very far north; it seemed to me in the fog that she was as far up as the waterworks; she had got out of her course, and as soon as the fog began to lift she was able to get into a correct position.

Q.—The captain of any steamer getting into a fix like that would be justified in throwing his anchor any place, to save his vessel?

A.—From anything I know of marine law, a municipality must protect its own intake, by concrete construction, or in some other way. The boat looks out for itself.

Q.—We had evidence here showing that in the neighborhood of the intake contaminated water has been found, and we also had sworn evidence this morning of another analyst, that during the last seven months there was only one month in which contamination of the water was not found; in view of that, would you think the intake was a very safe source of supply?

A.—What is meant by the intake?

Q.—I mean the mouth of the intake 700 feet out; here we have a proved analysis that 700 feet out from the foot of George Street contamination has been found; we have also examinations by another analyst, an independent party, independent of the government altogether, showing that analyses taken during the period of seven months in 1911, that in only one month was uncontaminated water found, and that was about 800 feet out; in view of those facts, would you think the present intake was absolutely safe?

A.—I would say that I opposed the removal of the waterworks to Point Edward, both personally and in "The Canadian," at the time the last by-law was up, because I contended that proofs had not been furnished that the water supply was bad, and I have maintained that attitude until I made some investigation myself, prior to the provincial investigation. My own enquiry showed that the prevalence of typhoid was much greater than I, as a citizen, had been informed, and that reports were not being made as required by law, and that I was basing my opposition on the idea that this town was no worse, from a typhoid standpoint, than other towns. Since that time I have found that we have had recurrent outbreaks of typhoid. I have heard the mayor of the town state at a Board of Health meeting that a bad report from the water had been received, and had been suppressed.

Q.—What mayor was that?

A.—That was Dr. W. A. Henderson.

Following that up, I made a list as near as I could gather, of the typhoid cases that I could learn of from the doctors by telephoning, and I tried to find out how many cases were traceable to infection in the Town of Sarnia, and whether there was any reason running through them such as a large number taking milk from one supply, or if the water seemed to be the cause. I did not wish to open up the subject and give it newspaper notoriety, if there was any other way out of it. But on talking with the physicians I found that those I talked to were of the opinion that it was the water, and I did not see any course except to make those facts public.

Then enquiry was made in the council as to the condition of the intake, and it was stated that the intake was perfectly sound and had been examined and found to be so. It was also stated there was no sand coming in, which would indicate that there was no break in the intake. Then, further, finding that when the subject was ventilated in the newspapers, and an examination made of the pipe itself, that it was broken, I felt further convinced, apart from any analysis, that the water was the cause.

I had some time previous written the Clerk of Petrolia as to the typhoid conditions there, and received a card from him stating that he knew of no typhoid cases in the town within a year.

Q.—Then you are satisfied that the water supply is at fault?

A.—I am satisfied that it is at fault, and that it has been at fault for a period of three years.

Q.—What I want to get at is this: In your opinion, even if the intake pipe had not been broken, is that a safe water supply, considering its danger from boats?

A.—I say that if the intake pipe were repaired and put in proper condition—in perfect condition—that I would not drink the water, one reason being that it passes through what I consider has been proved to be a contaminated section of the bay, and that what has already taken place in the way of breaks and cracked joints in the intake might take place a month after the repairs, and we would have to go through the same controversy again in order to prove that there was that break existing.

Q.—Practically, to be sure that the intake was all right, you would need to keep a man down along it all the time, to have it examined every day or so?

A.—I would not be content with anything less than a weekly examination during the season of navigation, for the reason that the two divers who went down brought reports which differed slightly, and that I am informed that the examination made at the instance of the council did not cover all the joints in the intake.

I think an examination of the intake is a thing that is made under considerable difficulty, and the report of one of the divers—the second one—entirely overlooked a breach of sixteen inches which was reported by the first diver. For that reason the examination of the intake would require to be exceedingly careful, and very frequently, to satisfy me that there was not some contaminated water from somewhere close to the wharf being sucked into it.

Q.—Are you aware, Mr. McAdams, of the number of deaths that have occurred in this town in the last, say, ten or eleven years from typhoid fever?

A.—I secured from the town clerk's office a list of deaths taking place in 1909, 1910, and 1911 up to the time I reached my conclusion alluded to. They ran about a dozen or so a year.

Q.—In the three years?

A.—Per annum. I think nine to twelve per annum. I have learned, however, that I had probably overlooked some in making the report, because two deaths were alluded to by physicians that I had not seen in a report; one was a man named Forfar.

Q.—Would you be surprised that in the years including 1900 to 1911, 98 persons died in Sarnia from typhoid fever?

A.—Yes, I would be very much surprised.

Q.—Well, that is the actual fact: those are the actual deaths reported by the Clerk of your town to the Registrar-General's Department in Toronto for the years 1900 on and including 1911—98 deaths.

A.—What would be the proportion of deaths in Petrolea, we will say, for that time?

Q.—Petrolea had one death in 1907: that is the only one they had in that period; Chatham, a city of 12,000 people, had 57 deaths in the same period.

A.—Might I ask how those run per annum, if they were about the same year, or bore a proportion to the population; that is, were there years in which there were no deaths whatever?

Q.—The totals are for Sarnia 98, Chatham 57, Windsor 84, in the 11 years, and in all that period Petrolea had but one death.

A.—How does our death rate compare with the average of the province, or is there any basis?

Q.—It is enormous; all the medical men yesterday were astonished at the death rate here; according to the death rate last year it would be 140 per 100,000, while the rate in Toronto last year was but 20 per 100,000; anything above 20 is a big death rate; the general death rate about the province is 14.6 per 100,000; but when you get 140 it is enormous. It was proven here yesterday that there were 151 cases of typhoid fever in this town last year, and taking your population, 10,000, and comparing it with Toronto, if Toronto had as many in proportion to their population as you have had here, they would have had 6,000 cases in the year, or 500 cases per month, whereas the actual number of cases in any one month last year in Toronto was 90. I will read something you are familiar with. We had a proven list of hospital cases, sworn to by Miss Oxenham as being correct, and I have taken out of this list the hospital cases alone, from 1896 until last year, and I submitted it yesterday to the physicians who were present, and almost invariably they agreed that for every case in the hospital there would be two outside. I will read the figures, starting with 1896: 2, 8, 10, 24, 58, 55, 73, 40, 18, 46, 41, 28, 49, 46, 35, and in 1911, 59; doesn't that look like an epidemic—just in the hospital alone?

A.—Yes.

Q.—59 cases for a town like this would be large in itself?

A.—Yes.

Q.—But when you get it representing only one-third of the cases it means that you have had a chronic epidemic here since 1898?

A.—Yes.

Q.—Take Chatham for the last three years: They had in 1909, 19 cases; in 1910, 23, and in 1911, 19 cases?

A.—Yes.

Q.—Within that whole period only four deaths from typhoid fever; does that not look as if you had had a chronic epidemic of typhoid fever here for years?

A.—I had already reached that conclusion. I have not reached a conclusion as to the proper location of the intake pipe, in view of the statements Dr. Cote made to me in the Sarnia waterworks, that Port Huron is comparatively free from typhoid.

Q.—Excuse me one moment about that, Mr. MacAdams. This statement was put in yesterday; it is a copy of the record of the State Board of Health of Michigan, in reference to typhoid in Port Huron. In 1909 Port Huron had 3 cases, with no deaths; in 1910, 49 cases, with 2 deaths, and in 1911, 40 cases, with 2 deaths. Does that coincide with your information?

A.—I don't know whether the Port Huron physicians are the same as in Sarnia. The provincial records for Sarnia show that in 1910 we had 9 cases, with about 12 deaths, and when I made my record in October we showed that the physicians had reported 4 cases altogether from Sarnia, and I think 11 deaths. That indicates to me that the reports of cases are influenced by a desire to suppress anything detrimental to the municipality, and at the same time Dr. Cote was saying that Port Huron was free from typhoid the mayor of the city was speaking against the action of a newspaper over in Port Huron which was stating that there was a considerable amount of typhoid fever in Port Huron.

Before I would conclude that the rapids furnished a pure supply, I would like to know the result of analyses in Port Huron, and I would like to know from some definite source of information, such as the undertakers' reports of deaths or the physicians' reports of deaths, whether typhoid has been prevalent over there. If typhoid has not prevailed at all in Port Huron, I would conclude that we might

get a water supply from the rapids or the lake, which would free us from these outbreaks in Sarnia.

Q.—But even with perhaps not very accurate reports of typhoid cases in Port Huron, still in 1911 40 cases were reported to the State Board of Health.

A.—40 cases of typhoid in Port Huron?

Q.—Yes.

A.—Then I would conclude that if they report 40, there would be more cases than that. That would be about 20 for Sarnia, as they have about twice our population; but their deaths are very low, 2 and none.

Q.—That is always the case of typhoid; in some epidemics the deaths are very low, and in some very high, and the same is true to a certain extent of all diseases?

A.—Yes. From all I have seen, I believe that if we had had a water supply from the lake or from the rapids, that we would not have had any of the cases or deaths we have had here, excepting a few that would be traceable to ship fever, and people coming in from the outside.

Q.—In your opinion, what is the best course for the municipality to pursue in the matter? I do not mean as to where they shall go; would you be of the opinion that the municipality ought to employ a competent water expert to tell them what to do?

A.—Yes.

Q.—That is certainly the wise course.

A.—I think the Council are all of one opinion upon that. The Council is on record as being of the opinion that a new source of supply should be found, and has bespoken I believe the assistance of the Provincial Board of Health in securing the benefit of any expert knowledge they may have.

Q.—Of course any knowledge the Provincial Board of Health has is at their disposal, but the Board has not an engineer who would say that you should have a certain plant, or works, to get a good supply of water from, or what the cost would be?

A.—No; the Council has asked for the papers to be brought down which were read before the Council at the time the present intake was located; an engineer from Detroit, I believe, made a report which was the basis for locating the intake at the present place; that report has been asked for, together with other papers in connection with it, and will no doubt be produced at the next meeting of the Council.

Q.—Is there anything else you think you can give us any information about?

A.—No; I have given my conclusions, and the facts I base them on.

HENRY A. MCLEAN, recalled, examined by the Commissioner.

Q.—(Papers handed in by witness). The report here called No. 2, received September 10th, 1909, can you say where it was taken from?

A.—I had a record of that; I have been looking for that, but cannot find it; I don't know whether it has been mislaid or not. No. 0 was not taken satisfactory to me. I find by taking a bottle out and attempting to take a sample in that current, in the bottle, is very unreliable, and I would not place any credence in any reports from samples taken in that way; that was taken out about the mouth of the intake, as near as we could find out.

Q.—Here is the report of Dr. Vaughan, of the Laboratory of Hygiene of the University of Michigan, Ann Arbor, with respect to a sample taken out near the mouth of the intake, in 1909, September 10th.

A.—Samples were taken out there, and divided them, and sent one-half to Toronto to Dr. Amyot, and one-half to Ann Arbor.

Q.—Here is the report Dr. Vaughan sent:

BACTERIOLOGICAL EXAMINATION.

Number of germs per cubic centimeter developed on an agar plate.

After 48 hours:—At 20 degrees, 16,500; at 38 degrees, 42,322.

A rather large number? His conclusions in reference to this sample are that: "This water should not be used. It is bad, both qualitatively and quantitatively. It contains a typhoid-like bacillus, and it contains too many bacteria. It is dangerous." It is signd by V. C. Vaughan, Director of the Michigan State Laboratory of Hygiene.

MR. J. W. HAMILTON: Was that report ever made public?

THE COMMISSIONER: You saw the difficulty I had to get it this morning?

MR. HAMILTON: I was not in at the time.

THE COMMISSIONER: I knew it was in existence, but for some reason or other—I do not find fault with the engineer—he received instructions not to produce it, and you saw the difficulty I had to get him to bring it here. I sympathize with the engineer. I did not want to put him to any trouble, but I was determined to have it.

Q.—Here is another sample; where is No. 1 from?

A.—I would take No. 1 to be I think from the water-works tap.

Q.—You say that No. 0 was taken from the mouth of the intake?

A.—Yes.

Q.—And No. 1 from the water-works tap?

A.—Yes.

Q.—This sample, analyzed at the same place, shows at 20 deg. 125,550 bacteria, and at 38 deg. 278,675 bacteria. The conclusion drawn by Dr. Vaughan from this test is that "This is not a clean water. The number of bacteria is too high. But we find no pathogenic organisms; it is condemned on account of the bacteria."

Sample No. 2 was sent by you, Mr. McLean?

A.—No. 2, 3 and 4 were distributed about the town.

Q.—Just tap water?

A.—One I think was in the north of the town, one in the centre, and one in the south part, towards the tunnel.

Q.—They were all tap water of the town supply?

A.—All town supply.

Q.—Sample No. 3, examined by the same gentleman, shows, after 48 hours, at 20 degrees 113,400 bacteria, and at 38 degrees 405,000 bacteria. His conclusions are, "This contains the colon bacillus, and should not be used. The number is also too large." No. 4 is also a tap water?

A.—Yes.

Q.—After 48 hours, at 20 degrees, each cubic centimeter developed 38,474 bacteria, and at 38 degrees 42,120 bacteria. His conclusions are, "This is condemned on account of the number of bacteria. I have to assume that the containers of all these samples were sterilized before being filled with water." They were sterilized?

A.—Yes.

Q.—They were sterilized before being filled with water?

A.—Yes.

Q.—"Of course if the bottles were dirty before being filled, these results are not reliable.." Of course ,you sterilized the bottles?

A.—The only result I would not rely on was that first sample.

Q.—Here is sample No. 1,499 dated December 26th, 1911; at 48 hours, 20 degrees, 260 bacteria per cubic centimeter, and at 38 degrees, 48 hours, 410 bacteria?

A.—Is there a number on it?

Q.—No. 1,499, a recent sample?

A.—Yes.

Q.—Where was that taken from?

A.—One was taken from the well, and one from the tap.

Q.—This was taken from the well; at 20 degrees 260 bacteria, and at 38 degrees 410; each at 48 hours. I should have given the first one, because there is a reference made to the first one, in this.

Take this one instead, which I should have given first. This is a sample dated December 26th, 1911, No. 1,500; number of germs per cubic centimeter, at 20 degrees, after 48 hours 120 bacteria, and at 38 degrees after 48 hours 130 bacteria. I understand this is chlorinated water. His conclusions are, "I should have no hesitancy in saying that this water is a safe drinking water. It will bear some increase in the chlorine, but I do not think it is necessary. The man who examined these waters knew nothing of their relation, and there is one point in this analysis which I cannot understand. I cannot see how the albuminoid ammonia should be increased by this chlorine. I will have him go over this again." It is dated December 28th, 1911, and is signed by V. C. Vaughan.

The amount of albuminoid ammonia is shown to be .18, the amount of chlorine is 14 parts per million, and the amount of free ammonia, 12 parts per million.

Now turn to the other sample, No. 1,499, of December 26, 1911, of the water from the well: At 20 degrees 260 bacteria, and at 38 degrees 410 bacteria, albuminoid ammonia .08, chlorine 12. The conclusions are: "This water, while not so good as the other, makes a good showing. I would like to know what evidence you have that the typhoid is due to the water. Have other possible sources of the epidemic been investigated? Would be glad to have a brief statement of the origin and extent of this epidemic. It hardly seems possible that this water in its present condition can be the source of typhoid."

Are those all the examinations you had?

A.—Yes.

Q.—Have you any correspondence in relation thereto that would give any further light on the subject?

A.—I might state that I had a letter asking if I got further information to inform Dr. Vaughan, but I do not find it now.

Q.—Of course when Dr. Vaughan made these examinations and made his reports he knew nothing, as he says, about the local conditions?

A.—No.

Q.—He did not know that there had been 150 cases of typhoid fever here in the last year?

A.—No.

Q.—He did not know that it had been shown by our investigations that milk, vegetables, fruits, ice-cream, and all other sources than water had been eliminated?

A.—The letters there show what I wrote to him.

Q.—Did he know what I have just repeated?

A.—Not that I know of. I did not inform him as to that. The letters show what I wrote to him.

Q.—You simply said you sent him five samples of water, in 1909?

A.—The second one was much similar. I think I telephoned the second one. I did not write a letter.

(Reports marked Exhibit 15.)

William F. B. Colter, sworn, examined by The Commissioner.

Q.—You are a member of the Board of Health?

A.—Yes.

Q.—You have been Chairman of the Board of Health?

A.—Yes.

Q.—Have you lived here a number of years?

A.—Yes.

Q.—And are familiar with the water conditions?

A.—Fairly so.

Q.—You heard the reports of the examination of water by Dr. Vaughan?

A.—Yes.

Q.—Had you ever seen those before?

A.—I had.

Q.—You were not here yesterday?

A.—No.

Q.—Evidence was given yesterday by a couple of analysts from Toronto to the effect that there had been pollution of the water at the mouth of the intake, 700 feet out from the foot of George Street, and from other sources, and evidence was given this morning to the effect that during seven months of last year your water supply was contaminated, with the exception of one month; in view of that, I suppose you will be willing to accept the examination of expert analysts?

A.—Yes.

Q.—In view of that, what do you think of the present source of supply?

A.—I think it is a very bad place for it to be.

Q.—You heard something of what was quoted from the proved list of hospital cases?

A.—Yes.

Q.—This was proved yesterday to be correct; before you knew that, or when you came to know that, it surprised you?

A.—Yes, indeed.

Q.—Do you think that that is a large typhoid rate for a town of this size?

A.—Well, I am not an authority upon that line, but I should imagine it would be.

Q.—Where you have a death rate of 140 per 100,000, from typhoid, that would seem to be rather high?

A.—Yes.

William A. Henderson, sworn, examined by The Commissioner.

Q.—You have been in practice here for a long period?

A.—Thirteen years.

Q.—You have been Mayor of the town recently?

A.—One year.

Q.—You are familiar with the situation generally?

A.—Somewhat.

Q.—You are not satisfied with the quality of the water supply, I understand?

A.—No, I am not.

Q.—And I suppose, in view of what you have heard about the analyses of the water—you may have seen this before—if you have seen it, would you be inclined to view water that showed these results on examination with suspicion?

A.—I would.

Q.—I don't know whether you have seen the proven list of hospital cases here for the past ten or twelve years?

A.—I have not seen a copy of it.

Q.—I will read them, the cases that came from the town, not outside cases, from 1898 to 1911; in 1898 there were ten cases, then 24, 58, 55, 73, 40, 18, 46, 41, 28, 49, 46, 35, and in 1911 59; every medical man who gave evidence yesterday testified to the effect that for every one case of typhoid treated in the hospital there would generally be two being treated by the people in their houses; what do you say about that?

A.—There would be a bigger ratio, in my practice.

Q.—But that would be fair?

A.—To my mind, very.

Q.—Last year bears that out; 151 altogether, and 59 in the hospital; doesn't that strike you as being an enormous typhoid rate for a town of this size?

A.—Far too much.

Q.—What does that mean all these years?

A.—That our water supply is altogether wrong.

Q.—It means a typhoid epidemic in the town?

A.—That's what it means; we have always had too much typhoid, ever since I started to practice in Sarnia.

Q.—You have heard the analyses by Dr. Vaughan?

A.—Yes.

Q.—You never gave any instructions to the engineer not to produce those?

A.—I did not, and I would like very much to see what communications took place, along with the specimens of water.

Q.—You understand about the difficulty I had to get these?

A.—I just heard it a moment ago.

Q.—Had you ever seen them before?

A.—I had heard of them.

Q.—You had never seen them?

A.—I would not be sure about that; but I had heard of them.

Q.—There was a gentleman here yesterday who asserted that typhoid fever was not due to the water at all, but that it was due to dirty streets, improper dwelling-houses, people eating too much, and some other things; what would you say about those as causes of typhoid?

A.—Absolute nonsense.

Q.—Then you have no hesitation in saying that the present water supply is a bad one; what would you say about the possibilities of it being made a good one?

A.—I think it is quite possible.

Q.—But I mean in the same place?

A.—It would never be safe, to my mind.

Q.—Why do you say that?

A.—Because there are too many men at Point Edward, and that can never be guarded against, and you can never tell what these currents are in the bay; you can never tell when a vessel is going to drag that pipe, and you would never know the next day whether the pipe was all right. Anybody going up that bay, thinking they were going astray, would drop their anchor, and would tear it apart, and we would have that mess out there and not know it, and lose all those lives, which could be saved by going to the lake.

Q.—There were 14 deaths last year out of a population of 10,000; do you think it was a high death-rate?

A.—The death-rate was not high, considering the number of typhoids, but it was far too high considering the number of people in the town.

Q.—That would be 140 per 100,000?

A.—Yes.

Q.—In Toronto, with a population of 400,000, the same death-rate would mean, what?

A.—I don't know what you mean.

Q.—You had 150 cases, say, of typhoid fever here, with a population of 10,000; Toronto has a population of 40 times as great; 40 times 150 would be 6,000?

A.—Yes.

Q.—At the same rate, it would mean how many cases for Toronto?

A.—That would be the number.

Q.—6,000?

A.—Yes.

Q.—If you have a death-rate of 14 per 10,000, the same death-rate for Toronto would be 40 times 14?

A.—Yes.

Q.—That would be 560?

A.—Yes.

Q.—That would stir up Toronto?

A.—It would stir up almost anybody.

JOHN GOODISON, sworn, examined by THE COMMISSIONER.

Q.—I understand that you sent some water specimens to Toronto some years ago?

A.—Yes, sir.

Q.—I just want you to identify some of these papers; you identify that letter (shows to witness)?

A.—Yes.

Q.—This is a sample sent July 19th, 1910?

A.—Yes.

Q.—There were two samples?

A.—Yes, we sent two on the 19th of July, 1910.

Q.—Will you say where you took these from?

A.—From our tap, in our office; one in the office and one in the shop—two different taps.

Q.—Is there any other evidence you think might be of value to us?

A.—There is the tap water we sent away.

Q.—Do you know anything about the general water conditions here?

A.—They are not very good. When we took the test we had a little dispute about the water not being good, and that there was a leak in the pipe at the time, and I believed there was, and I believe there has been a leak in the pipe right along.

Q.—Do you think the pipe will ever be safe, in its present situation?

A.—I do not really think it will. In the first place, I think there must have been something wrong with the pipe at first, in the bolts, or it would never have got away from us. At the time the test was taken the well was bad.

Q.—It is a very difficult job, to make a pipe like that absolutely sure?

A.—Yes. You have to depend upon the men down there. It is a difficult job for the men.

Q.—It is difficult to do it?

A.—Well, not so difficult, if they are honest with you.

Q.—But it is a difficult job?

A.—It is a difficult job.

Q.—There is nothing to prevent a boat anchoring there and ripping the pipe up?

A.—Nothing. But I think there has been a leak in the pipe right along for some time back. If the flanges were not bolted together properly they would open up, and I believe there has been some trouble there.

Q.—In view of what you know about the water, and of the general situation, were you surprised to hear the reports of the analysts which were used here this morning?

A.—No, I was not.

Q.—These reports were not generally known?

A.—No, they were not.

Q.—The good one from Dr. Vaughan was published in the paper, but the bad ones were not published?

A.—I think the doctor of our Board of Health and our medical men should have reported those cases.

Q.—I am not referring to that so much; but when there was a good analysis made by Dr. Vaughan, that went into the newspapers, or into one newspaper anyway, on January 11th; the good analysis was shown in the paper, but it has not been shown that the bad ones were ever put in the newspaper?

A.—I could not say for that.

Q.—You did not see them, anyway?

A.—I don't remember seeing them. They might have been in the paper, and I not see it.

William J. Thompson, sworn, examined by The Commissioner.

Q.—What is your occupation?

A.—A Foreman for the Hub and Spoke Works, Loughead Brothers.

Q.—Where are your works located?

A.—North of the Water Works, about 20 rods.

Q.—How long have you been in that position, or about those works?

A.—About fifteen years.

Q.—Would your position there give you any opportunity of studying the river, or knowing the conditions in the river?

A.—Nothing.

Q.—Have you made any observations of the river at all; have you noticed anything about it?

A.—No, I cannot say that I have, in particular, any more than the lowering and the raising of the water.

Q.—What about the lowering or the raising of the water?

A.—It has been noticed, I think, more this summer than any time previous.

Q.—What have you noticed?

A.—Nothing in particular, any more than the water going down with a south wind; I think that causes the greater part of it, although we had once this summer that it lowered more than usual, but I did not think the wind had any effect upon it that time; I don't know what was the cause of it.

Q.—What lowering did you notice?

A.—Two feet or 2½ feet one time this summer, it went down about that much.

Q.—What effect would that have upon the water supply, if any?

A.—I don't think it would have any.

Q.—Do you know anything that occurred in the river, any current that would have any effect upon the water supply?

A.—The current is up into the bay, along the shore, but I do not see that that would have any effect on the water supply.

Q.—Is the water in the bay not in a very good condition?

A.—It can't be in a very good condition.

Q.—You would not care to drink it?

A.—No, I would not, without I was forced to.

Q.—Did you ever notice what effect large boats coming up and down the river have?

A.—The suction is in and out, but I don't think that concerns the intake pipe in any way.

Q.—Is it possible that it might?

A.—I don't see how it can.

Q.—Would you say that it is impossible?

A.—I would not say it is impossible, because that is something going a little beyond me.

Q.—Did you ever hear of a boat passing up there and creating such a disturbance in the waters that a schooner was thrown up on the dock?

A.—I have not.

Q.—The harbor master told us of that yesterday. Would you be surprised if such a thing happened?

A.—I would. I have a yacht there, and the biggest boats have gone up and down since I have had it, and it has never been up on the dock yet.

Q.—The harbor master ought to know?

A.—The harbor master ought to know.

Q.—If the harbor master made that statement in his sworn evidence, you would not dispute it?

A.—No, I would not.

Q.—If there was such a disturbance as that created by a vessel going up, wouldn't it have some effect upon the water, to mix it up pretty well?

A.—I don't think so, not that distance out, not the distance our intake pipe is out; I would not think so.

Q.—If it is proven by the evidence of several analysts that the water supply of the intake is impure, would you accept that as evidence that the contamination was getting in there?

A.—I don't really understand you.

Q.—If three men competent to make analyses of water come here, and we have a fourth, who makes his report and sends it here about the water at the mouth of the intake being contaminated, would you, in the face of all that, say that the water around the mouth of the intake was not contaminated?

A.—No, sir; I would not.

JOHN W. HAMILTON, sworn, examined by THE COMMISSIONER.

Q.—I think at one time you sent some samples of water to Toronto?

A.—Yes, sir.

Q.—Do you recollect about them?

A.—Yes.

Q.—Was it June 11th, 1903?

A.—It would be some time thereabouts; I am not just positive, but it would be about that time.

(Reports shown to witness.)

Q.—And another on the same date?

A.—Yes; there were five or six, and there might have been seven or eight sent altogether. I know I took quite a number of samples.

Q.—I think these are the only two we have in your name?

A.—Yes.

Q.—You are satisfied you sent these samples?

A.—Yes, sir.

Q.—Do you know something about the river conditions here, Mr. Hamilton?

A.—Yes, I do.

Q.—What is your business here?

A.—For the last twenty-one years I have been one of the Town employees, collector of taxes and collector of water rates.

Q.—Then you are familiar with water conditions, naturally?

A.—Yes.

Q.—Can you tell me any observations you made in respect of the river, and of the water supply?

A.—In 1903, I think it was about the time these samples were taken, Dr. Bryce, the Provincial Health Officer, was here, and we went into it quite fully, and on suggestions made by me as to currents in the river, we went up to Point Edward, in the Narrows there, and put in several buoys, to have them float down the river to find where they would go to. That is the time one investigation was made. I think in the Narrows we put in six.

Q.—What did you find?

A.—We found that two of them went down on the American shore, and were picked up about the mouth of the Black River.

Q.—Where were they put in?

A.—At Point Edward, two miles further up, where the lake empties into the river, at the narrow channel. Two of them floated in to the Canadian shore,

and were picked up there, and two of them floated down about the centre of the river and were picked up near where the gas buoy is out in the river.

Q.—Were they taken on different days?

A.—No, that would be at the one time; they were put in on the same day.

Q.—That was not a very extended examination?

A.—No.

Q.—What were your conclusions from it?

A.—My conclusion was that the current varied. I would assume that the current in the river varied at times. On observations I have seen the current running up, as has been explained here before, that is, the debris or excreta or paper floating up along the docks, from the present sewer outlet.

Q.—Would there be any possibility of that getting out to the mouth of the intake?

A.—I would not be prepared to say that, but I have seen it floating up as far as Clark's dock, and farther up than that.

Q.—If large boats will create such a disturbance in the river as was proven yesterday, as to throw a schooner up on the dock, do you think that that disturbance might bring sewage to the intake?

A.—I think so. I would like to say something of one experience I had with reference to conditions such as that; the first year of the "Northwest," I had not seen her, but had gone down repeatedly to the shore to see her passing up the river, and on a Sunday I remember her passing up, and as she came up the river the water along the shore raised up quite high on the shore of the bay, and as she passed up it all went back with a rush. I remember that distinctly.

Q.—There would be nothing to prevent that water getting out and mixing up pretty well?

A.—I don't see why it should not.

Q.—Have you observed the lowering and raising of the waters in the river?

A.—No, except at that point. I know a south wind will lower the water in the river and raise it in the lake.

Q.—You would agree with the evidence given yesterday by the harbor master?

A.—Yes, I would say so; I did not hear it.

Q.—He would be quite a competent man to give evidence in that matter?

A.—Yes, I think so. I don't think he is a master mariner, but a citizen who has been in that position for a number of years, and I think his observations will be quite accurate.

Q.—What about the observations made by Mr. Brown, of the International Ferry?

A.—I did not hear his evidence, but saw a letter in the paper some time ago, and I quite coincide with what he stated there. I think it is quite plausible. That would be just on the same line as what I said I saw from the "Northwest."

Q.—From what you have heard about the examinations of the water, and what has happened at the intake, do you think an intake can ever be safe out there, to give you a safe supply?

A.—No. I might say that in 1888 I was Chairman of the Fire and Water Committee that year and a member of the Council. We had the intake pipe all broken previous to that time, because under my supervision we had it repaired; it was supposed at that time that it was broken by the ice; the ice that year was very thick.

Q.—What, in your opinion, would it necessitate, if you were going to put an intake out there, to have it absolutely safe?

A.—To my mind, it should be embedded in the soil below where an anchor could get at it to tear it away.

Q.—The mouth of it would have to be protected?

A.—Yes, and even that would have to be protected by some superstructure to keep it, and even then it would not be possible to protect it at all times, because a boat would run into it and probably destroy it; in a fog, especially, it would be almost impossible to protect any structure, because I have seen two boats come across the bay on a foggy morning, and of course when they got close enough to the shore they could see, turn down and come in right along the waterworks pipe; in fact I believe at that time the waterworks pipe was broken right close to the shore; they were going ahead about due east, and only had leeway enough to turn and escape colliding with a boat that was lying there; they came in at the waterworks dock; that was in a fog, and it was no fault of the navigators.

Q.—There are dense fogs there sometimes?

A.—Yes. We had a boat last summer sunk; a fog came on very suddenly.

Q.—There would be occasions when it would be absolutely necessary for a captain to throw his anchor at any place?

A.—I think so.

THE COMMISSIONER: If any person present has any questions to ask of this or any other witness, they are at perfect liberty to do so.

W. A. WIGGINS, sworn, examined by THE COMMISSIONER.

Q.—How long have you been engaged in work on the river?

A.—I was engaged about 20 years on the lakes and rivers here, but since that time, about thirty years, I have been here in Sarnia.

Q.—Over such a long period of time, you have become familiar with the river and its waters?

A.—Yes, quite so.

Q.—Did you ever observe anything about irregular currents in the river?

A.—Yes.

Q.—What would you say about those?

A.—What was the cause?

Q.—No, what was the character of them?

A.—With a south wind, the current is usually along the shores, up into the bay here, and with a north wind it is strong down the river.

Q.—What effect does that have upon the waters in the river?

A.—A lowering, a falling of the river, of course.

Q.—Would that have any effect, in your opinion, when the river falls or rises, in a piling in or piling out of the water in the bay?

A.—When it falls it rushes down, and when it rises it rushes up, and when you get into the main river it will carry articles up into the bay.

Q.—Would that have any effect upon the water supply?

A.—The water pipe?

Q.—I do not mean disturbing the water pipe, but would there be any chance of carrying any contaminated water out of the bay?

A.—There is no doubt but that it would, and it would fall into the bed or quiet water in the bay and over our pipe and along.

Q.—Would the construction of large vessels have any similar effect?

A.—They might throw it in towards the shore and make a current to the shore, and whichever way the vessel goes the current from that vessel would go in that direction.

Q.—As a captain, what would be your first concern, if you had a vessel?

A.—In what way?

Q.—Supposing you had a vessel, and you were the captain and were piloting it up the river, what would your first concern be, above everything else?

A.—To stop the vessel.

Q.—No, not to stop the vessel; would it be your vessel, or would it be the intake?

A.—No, it would be at all times to protect the vessel.

Q.—If you saw it was necessary to throw your anchor, you would throw it?

A.—Yes. That would be the last hope of the vessel, and in throwing the anchor it would be to save the vessel or avoid collisions, and so forth.

Q.—There are no regulations to prevent you doing that?

A.—No more than a notice, which, if a Captain could avoid, he probably would; but there are times he could not, in order to protect his own property.

Q.—From that you would reason that no intake out there would be safe?

A.—I don't think so—not from an anchor.

MR. J. W. HAMILTON: Q.—In the latter part of November, did you have a report at your house about a suspicious taste in the water?

A.—Yes, I did. Our daughter was drinking it, and she said the water tasted gassy, or oily, or something of that nature, and called my attention to it, and I told her I thought she was just imagining, but they allowed she was not.

THE COMMISSIONER: What did you attribute that to?

A.—I had no idea, until afterwards. I heard they were dredging up in the bay near the gas works, and were dumping some of the sediment or material which they dredged out somewhere near there.

Q.—That stirring up of filth in the bay might occur any year?

A.—Yes, and I allowed afterwards that it might have come from that.

Q.—But no matter where your intake was, or whatever the year was, it might occur at any time?

A.—Yes, if the intake was, as I understand it is now, broken. I was one of the commission on the intake in putting it out there, and we, I think got material from Inglis of Toronto, to go out 800 feet from our well, and we put out 740 or 750 feet in a line. The water was various depths, and we got what Mr. Brown was speaking about yesterday, two of those ball-bearing joints, so as to go down somewhere over 30 feet, a few hundred feet from the dock—perhaps where it was broken now—and I think we found that they would not list enough to carry it to the bottom, that is, the ball, without being liable to leakage, so we drove a line of spiles like and hung the pipe up by chains, about six or eight feet above the bottom of the river, until we got like over the hollow and cut the bar again, and then we went on and laid it on bar. At this place, it seemed as though there was where the pipe had been broken, perhaps by an anchor, or perhaps by a vessel drawing too much water going up the river.

Q.—But if that intake is repaired or a new intake put down there, it is liable to the same accident?

A.—It certainly is, at any time.

MR. HAMILTON: A similar occurrence occurred at my own house. My daughter called my attention to the fact, and wanted to know where the oily or

gassy taste came from, and Dr. Wilkinson came into my office a short time afterwards and spoke of it. So it seemed that this water was going into different parts of the town.

MR. WIGGINS: Those joints were very tight. They were put together with lead gaskets and screwed together. After the diver had done that, we had another diver in whom we had every confidence go over this pipe from one end to the other, and he examined it and found it tight, so far as he could see; but, he said, it was just newly laid, and that he found it in every way as had been recommended by our diver employed by Inglis to go over it.

MR. GEORGE BROWN: When putting those chains there, you could not tell whether you had every one just the same height, so as to be sure the pipe was lying on it?

A.—We depended upon our diver. We drove the piles, and before cutting them off he put the chains around and cut the piles off afterwards.

Q.—But you understand when you are putting chains on there, the links are the same length, but it is a difficult thing to tie a chain in any shape or form so as to have the same amount of bridle hanging down from each set of piles. If the diver made the joints perfectly tight, the weight of the pipe in settling down is going to close the pipe at the top and open it at the bottom?

A.—But there was a ball bearing, or two ball bearings, and those two ball-bearings were supposed to regulate that.

Q.—Had you one at every bridle?

A.—I think they had two. It was supposed to carry until it landed on the shore.

Q.—The pipes were 30-foot lengths?

A.—Yes.

Q.—And ordinary lengths, except the one that goes up to where you couple to the waterworks pipe at the waterworks?

A.—Yes.

Q.—And another where you go to the level?

A.—Yes.

Q.—And another where it would rise outside?

A.—Yes.

Q.—And where was the ball-bearing?

A.—In the centre. The man said he hung them on the level, and that is all we know.

DR. ROBERT MCDONALD, sworn, examined by THE COMMISSIONER.

Q.—You are a regularly qualified medical practitioner?

A.—I am.

Q.—How long have you been here?

A.—I have been practising here about twelve years.

Q.—I suppose you are familiar with the typhoid situation here?

A.—Yes, somewhat.

Q.—You gave a list of the cases you had had to Dr. Bell, the Inspector?

A.—Yes.

Q.—Do you recollect how many cases you had?

A.—Fourteen or fifteen, I think.

Q.—Whatever you gave was correct?

A.—Yes.

Q.—You are satisfied they were cases of typhoid fever?

A.—No question about it.

Q.—Is there any suspicion in your mind that it was something else?

A.—No; some in fact are just getting better now.

Q.—You have learned I suppose that there were 151 cases during the last year in Sarnia?

A.—I understand so.

Q.—Would you think that was a large number of cases for a town of this population?

A.—Yes.

Q.—In fact, would you go so far as to say that it is an enormous number?

A.—It is, for less than 10,000 people.

Q.—There were 14 deaths in a population of 10,000—would you say that that was a large death rate?

A.—I would.

Q.—When I call to your mind that it was at the rate of 140 per 100,000, and last year the rate was 20 per hundred thousand in Toronto, would you consider it large?

A.—I would, indeed.

Q.—It has been shown here that there were a certain number of cases of typhoid treated in the hospital, which are Sarnia town cases, every year?

A.—Yes.

Q.—A number of doctors have given evidence to this effect; that there would be at least two out of the hospital for every one in the hospital; would that be your experience; for instance Dr .Henderson not only said it was true in his experience, but that he would have more than that?

A.—I think two would be my experience.

Q.—But that is a fair estimate?

A.—It is a fair estimate.

Q.—That would mean if you had fifty in the hospital, you have 100 more outside?

A.—Yes.

Q.—That was the experience in 1911.

A.—Yes.

Q.—Then we have in Sarnia a list of town cases treated in the hospital away back since 1896; in the first two years of that period there were only a small number, but in 1898 it started with 10, and then on with 24, 58, 55, 73, 40, 18, 46, 41, 28, 49, 46, 35, and in 1911 59; what do you think of that; those are town cases in the hospital, and it would mean, according to your evidence, twice as many more outside—what do you think of that in respect of typhoid fever in this town since 1898?

A.—I think it is an excessive number.

Q.—You are ather astonished at it?

A.—Yes; I did not think there would be that many.

Q.—Does it prove that Sarnia has been in a chronic state of typhoid epidemic for ten or twelve years back?

A.—Yes.

Q.—What do you think of the water supply?

A.—I have always thought it was the cause.

Q.—What do you think of excess in eating, improper dwellings, sewer gas, fog, and things of that nature as causes of typhoid fever?

A.—I don't think they cause it at all.

Q.—You don't know any authorities at all that support that idea?

A.—No.

Q.—What do you think of a statement to that effect?

A.—I think the man who made the statement was grossly ignorant, or was trying to cover up something.

Q.—It has been shown by the evidence of three water experts that the water in the neighbourhood of the intake was polluted in 1905 and 1909, and in last year; it has been proven also by reports of Dr. Vaughan, of the State Laboratory of Hygiene at Ann Arbor, that the water was polluted in 1909, as shown by five different samples; would you be willing to accept the evidence of those men as to their reports?

A.—Quite.

Q.—You are of the opinion that the source of supply is not a safe one?

A.—Yes; I think it should be made absolutely safe.

Q.—But the present supply?

A.—No; I don't see how it can be made safe.

MR. W. E. C. WORKMAN: One thing I have not heard mentioned here is, we are troubled with sand in our water pipes, showing that something must be stirring up the bottom of the river.

THE COMMISSIONER: Come forward and give your evidence.

MR. W. E. C. WORKMAN, sworn, examined by the Commissioner:

Q.—What is your occupation?

A.—Musician.

Q.—You said something about sand being in the water? Have you observed that?

A.—I have found that regularly; we have to clean out our motor, which is the power used in the organ, and that has to be done regularly.

Q.—Have you ever had typhoid fever?

A.—I have never had it.

Q.—Do you think it is safe to drink the water?

A.—Not unless it is boiled, or attended to—sterilized.

Q.—What, in your opinion, would the significance of sand be?

A.—In my opinion, it would mean that some influence or other must have stirred up the bottom of the river and loosened the sand.

Q.—Is the bottom of the river sandy?

A.—The sand must come from some place.

Q.—Where would it be likely to come from?

A.—Either from the shores or from the bottom.

Q.—If the sand came from the shores of the bay, what would you say about the water?

A.—The water would go with it, and any contamination there might be therein.

Q.—You have heard some evidence about the currents, and the suction of boats and their influence upon the water: do you agree?

A.—I have also been told by good swimmers that there is a very strong undercurrent just off the dock, below the Grand Trunk dock, or the Northern Navigation dock.

Q.—That would be towards the intake?

A.—That would be outstream; and I have also been told that there is a strong undercurrent farther up, and that the river is full of undercurrents.

Q.—Is there anything else you can give us any information about?

A.—No; I think that is all; nothing excepting the sand.

(Adjourned at 12.35 noon, until 1.45 p.m.)

Investigation resumed at 1.45 p.m.

Dr. A. N. Hayes, sworn, examined by The Commissioner.

Q.—You are a regularly qualified medical practictioner?

A.—Yes, sir.

Q.—How long have you been practising here?

A.—I have been practising in this vicinity since July 1st, 1890; that would be 21 years and 6 months.

Q.—Was that the year of your graduation?

A.—That was the year of my graduation.

Q.—You are familiar with local conditions here?

A.—Yes, sir.

Q.—I notice you gave a list of the cases you had treated during last year, 12 from November 1st to December 22nd—during those two months?

A.—Yes, sir.

Q.—And 7 previous to that?

A.—Yes.

Q.—19 altogether?

A.—Yes.

Q.—The list is correct?

A.—Absolutely.

Q.—You are satisfied that those cases were typhoid fever?

A.—Absolutely.

Q.—You have heard that there have been 150 cases here during the last year?

A.—The last report I heard was 114. That was the largest number I heard.

Q.—It was proven by the Clerk that there were 151?

A.—That may be.

Q.—You would be satisfied with that?

A.—Yes, sir.

Q.—The population of Sarnia is about 10,000?

A.—About 10,000.

Q.—Does it strike you that that is a large proportion for a town of this size?

A.—Very large.

Q.—The death rate for the year was 14: take that in the ordinary way statistics are made up, by the 100,000—it would mean 140 per 100,000?

A.—Yes.

Q.—Does that strike you as a very large rate?

A.—It is a large rate.

Q.—In Toronto, with a population of 400,000, they would have had 560 deaths?

A.—Yes.

Q.—That would look very large for the City of Toronto?

A.—It would seem so.

Q.—We had evidence yesterday that the typhoid rate last year for the City of Toronto was 20 per 100,000; so comparatively speaking yours is very large?

A.—Yes, sir.

Q.—It was shown here yesterday that during the last 10 or 12 years there were certain Sarnia Town cases treated in the hospital?

A.—Yes.

Q.—That does not mean outside cases, but cases that belong to the town, and I think almost without exception the doctors who have given evidence here have said that for one case so treated in the hospital there would be at least two treated in the people's homes; would that be your experience?

A.—Just about that.

Q.—That would mean, that if there were 10 treated in the hospital there would be 20 outside the hospital, or 30 in all?

A.—Yes.

Q.—That is your experience in it?

A.—Yes. I might give you my experience just now; out of the 12 cases I had, I had possibly 5 in the hospital, and the other 7 were out. That is in about the same proportion.

Q.—But you had 19 altogether?

A.—I was taking the 12 that I reported at one time: if I had 19 I did not have more than 7 or 8 of them in the hospital.

Q.—That would bear out the general idea?

A.—About the general idea.

Q.—This is the list, starting in 1898 and going to 1911; in 1898 there were 10, then 24, 58, 55, 73, 40, 18, 46, 41, 28, 49, 46, 35 and 59: what conclusions would you draw from that, that if those were simply Sarnia Town cases it would mean each year that there were twice as many besides—in a general way?

A.—Yes; it would mean there would be as many outside any way, as far as I could say.

Q.—Then even if there were only as many more—take 1900, when there were 58 cases—that would mean 116 more in the town?

A.—Yes, sir.

Q.—That would mean a tremendous rate?

A.—A tremendous rate.

Q.—And then 73 in one year; that would be 146?

A.—Yes, sir.

Q.—Take the lowest year in that group, 18, that would mean 36 at least?

A.—Yes, sir.

Q.—Which would be a large number for this town?

A.—Yes.

Q.—Would you infer from the list I have quoted that you have had a chronic condition of typhoid fever here for the last 10 or 12 years?

A.—I have always claimed so.

Q.—You know the water supply; I may say that we have had three water experts give evidence here, and we have the proved report of another water expert (Dr. Vaughan of Ann Arbor), to the effect that the water supply in the neighborhood of the intake has been polluted several times: that it has been shown by examination to be polluted. In addition, we have the fact that the

intake is liable to be broken by an anchor at any time, and we have the fact that it is broken at the present time, and you have all this typhoid; what do you say as to the character or the safety of the present supply?

A.—I think it is unsafe.

Q.—Can it be made safe, taking these facts into consideration?

A.—No, sir. I would not think so.

Q.—Do you think considering the amount of navigation on this stream, that that would have any ill effect, or first of all would it have any ill effect, the navigation and the number of people passing up and down in the boats?

A.—It must have some effect.

Q.—Would that tend to decrease or increase, in the future?

A.—It would naturally increase.

Q.—Then you are satisfied that the present source of supply is not safe?

A.—Absolutely.

Q.—What would you say about these being cases of typhoid fever; there was a gentleman here who said that improper houses, dirty streets, dirty back yards, eating too much, and other things of that character were causes of typhoid fever?

A.—They are not causes of typhoid fever unless you have the germs introduced into the dirty conditions.

Q.—Then how would they be communicated?

A.—They have to be taken into the system by food or by water.

Q.—That would not be likely to occur during the cold season of the year?

A.—No, sir.

Q.—You do not think that bears much relation to the typhoid?

A.—No, sir, none.

Q.—Do you wish to add anything that I may have overlooked?

A.—No, sir.

Dr. William Logie, sworn, examined by The Commissioner.

Q.—How long have you been in practice here?

A.—I am on my 26th year.

Q.—You are pretty familiar with the local conditions?

A.—I am.

Q.—You gave a list of cases to Dr. Bell, 9 of which occurred in November and December last, and 8 in the previous portion of the year; would that list be correct?

A.—I went over it roughly; there might have been one or two more than that, but I think that is the number I gave to him.

Q.—It is not over-estimated?

A.—No; it is not over-estimated.

Q.—Those were cases of typhoid fever?

A.—Yes, as far as I can say.

Q.—Are you of opinion that you have been having a good deal of typhoid fever here?

A.—Yes.

Q.—It has been proven by evidence that there were at least 150 cases last year in a population of 10,000; would you say it was a large number?

A.—Yes sir: I would think so.

Q.—Would it constitute an epidemic?

A.—Yes.

Q.—If there were 14 deaths among those, would you say it was a large death rate?

A.—Unusually large.

Q.—What in your opinion has been the cause of it?

A.—My own personal opinion is that it has been from the water.

Q.—Would you say that improper houses, over-eating, fogs, sewer gas, dirty streets and yards, would be a cause of typhoid fever?

A.—Not unless the germ was in the yards or in the houses from which the inhabitant could either get it through drinking or eating food that was poisoned with it.

Q.—Then your knowledge of typhoid fever leads you to believe that the germ must be swallowed?

A.—It must be taken into the system.

Q.—Is that known to medical authorities?

A.—I think so.

Q.—Do you know any authority who says that these other things were the cause?

A.—Not unless the people were infected with the germ.

Q.—Aside from these other causes would you say a fog would carry the germ?

A.—If it was in the air, I suppose one could breathe it.

Q.—Do you know any medical authority who will even go that far?

A.—No, sir.

Q.—You heard me quote a list of cases from Sarnia Town, treated in the hospital, to Dr. Hayes?

A.—Yes.

Q.—What would be your opinion of the ratio in the hospital to those in the homes?

A.—From this last epidemic, in which I reported 9 or 10, I might say I only had one in the hospital. It varies, with physicians.

Q.—Would two inside and one in the hospital be a fair estimate?

A.—I think it would be fairly true.

Q.—Would you say it would not be too great; what I am trying to get at is, if there was one in the hospital would there be twice as many outside, in a general way?

A.—As far as my own experience goes, yes.

Q.—Where you have this list of 10 in 1898 and 59 in 1911 in the hospital, you will admit that that is a large number for this town?

A.—That is a large number in itself.

Q.—If you had twice as many more, or as large a number outside, it would be a tremendously large number?

A.—It would, certainly.

Q.—Would it be an epidemic?

A.—It would, certainly.

Q.—Would you go so far as to say that there has been a chronic epidemic since 1898 or 1899?

A.—We have had, for a good many years.

Q.—What is your opinion about the water supply?

A.—From what I have heard and from my own personal observation, I consider that as long as a pipe is laid from the waterworks building out into the river, running through the danger zone, it is always liable to be broken or something else go wrong, that there is almost sure to be an epidemic at any time.

Q.—It has been shown here by the reports of four experts, that there has been contamination out at 700 and 800 feet in the bay; would you think there was much danger of contamination of water, even if the main was intact?

A.—Well, it is in the danger zone, anyway.

Q.—You don't know of any means whereby an intake out there being at the mercy of the anchors of vessels, could be said to be at any time absolutely safe from a break?

A.—I could not.

Q.—Have you anything to add, Doctor?

A.—Nothing.

DR. CARLTON C. WHITTAKER, sworn, examined by THE COMMISSIONER.

Q.—In November and December you had two cases of typhoid fever, and from then to January 1st, one case?

A.—Yes.

Q.—You gave them to Dr. Bell?

A.—Yes.

Q.—Were they correct?

A.—Yes, sir.

Q.—Are you satisfied they were cases of typhoid fever?

A.—Yes.

Q.—Are you satisfied that the disease which has been epidemic here has been typhoid fever?

A.—Yes.

Q.—You heard the list of cases I read over to Dr. Logie: what in your experience would be a fair estimate to make, say of cases in the hospital and out of the hospital, that you would treat, that is, if you had two cases in the hospital how many might you have outside?

A.—Well, twice as many anyway, as a general run. I would think, and sometimes more.

Q.—You recollect here in the list I read over: does that strike you that for a period of years there was a tremendously large number of typhoid cases here?

A.—Yes, for the population.

Q.—Sufficient to constitute an epidemic, in most of those years: you heard the figures I read, which mean the hospital cases belonging to the Town of Sarnia and to the town alone?

A.—Yes, it would.

Q.—What is your opinion about the cause of this epidemic?

A.—I think the water is partly to blame, at least.

Q.—You would not take any stock in the argument that it was due to eating too much, to fogs, sewer gas, dirty houses, dirty yards, or streets?

A.—I do not see that eating too much alone would cause typhoid.

Q.—Would an improper house cause typhoid?

A.—If the germ was there, it would.

Q.—What do you mean by a person getting typhoid, or how do you understand he gets it?

A.—Taking the germ into the alimentary canal.

Q.—What are the ways of taking it in?

A.—Through the stomach.

Q.—But in what way are they taken in?

A.—Food or liquids—drinking or eating.

Q.—Food and drink?

A.—Yes, that is the main thing.

Q.—Is there anything you would like to add?

A.—No.

Dr. William Robert Hall, sworn, examined by The Commissioner.

Q.—You are a duly qualified medical practitioner?

A.—I am.

Q.—You live in, and are Health Officer of the City of Chatham?

A.—Yes.

Q.—How long have you been in that position?

A.—Twenty-seven years.

Q.—You also have had experience in health questions from being a member of the Provincial Board of Health.

A.—Yes.

Q.—You are familiar with health matters in your own city, I presume?

A.—I try to keep so.

Q.—You sent me a list of cases of typhoid fever that occurred in your city during the last three years?

A.—Yes.

Q.—Do you recollect the numbers?

A.—In 1909 there were 19 cases; in 1910, 28 cases; and in 1911, 19 cases.

Q.—What were the deaths?

A.—The deaths during the three years were four—two in 1911 and two in 1910.

Q.—What is the population of Chatham?

A.—We talk about 12,000; probably between 11,000 and 12,000.

Q.—You have heard some evidence from the doctors here about the number of cases in Sarnia; how does that strike you?

A.—It strikes me as being, for the population, a very large number of cases.

Q.—You heard me cite the cases that were treated in the hospital; would you say that those numbers were large, for the previous ten or twelve years?

A.—Yes. There were a large number of cases occurring in the hospitals. Our experience with typhoid in the hospitals probably differs from the experience here. The majority of our cases are treated in the hospitals; in fact, in 1909 I think there was but one case treated outside the hospitals.

Q.—Is that usually the case with cities, anyway?

A.—Yes.

Q.—Where there is accommodation in the hospitals, the cases of typhoid usually go there?

A.—Yes, sir.

Q.—But here there seems to have been as many, if not twice as many, treated outside the hospital; anyway, with 59 cases in the hospital in 1911, and all town cases, is that a large proportion in a population of 10,000?

A.—Yes, it is.

Q.—And 73 in 1902, when the population would be certainly smaller, is a large proportion?

A.—Yes; our cases of typhoid are all reported as they occur; we require each and every case to be reported, so that we can get them exact.

Q.—The hospital list I sent you, and which I have here, you might just prove it and we will put it in as an Exhibit; you identify that list (shows to witness)?

A.—Yes, I will swear to the correctness of it. I suppose it is understood that a great many that are marked from outside points do not come from the City of Chatham, but from the County and outside towns.

(Marked as Exhibit 16.)

Q.—I understand that they do not all belong to the city?

A.—No.

Q.—And they are indicated on the Exhibit?

A.—Yes.

Q.—I counted up the ones in red pencil.

A.—Yes.

Q.—You heard the opinions of various doctors given here just now, as to what would not be causes of typhoid fever, such as improper houses, fog, dirty back yards, excess in eating, and so on?

A.—Yes.

Q.—What do you think about that?

A.—I do not think it is possible to have a case of typhoid fever unless the germ has been swallowed.

Q.—We had a gentleman here yesterday who asserted that typhoid fever was due, particularly in this town, to those causes—over-eating, improper houses, dirty back yards, fogs, and the like of that; you would not take any stock in that?

A.—No; I thoroughly agree with the opinions of the medical men given previous to my giving evidence—that those are not causes of typhoid.

Q.—We have had the direct evidence of three water experts, chemists and bacteriologists, and we have the reports of a fourth—Dr. Vaughan, of Ann Arbor—to the effect that the water supply here which has been taken has been polluted, at various times, not all at the same time; for instance, one reported it as being polluted or contaminated in six out of seven months of last year, and at various other times in previous years; with that evidence before you, what would you think of the water supply?

A.—I would certainly look at it with very great suspicion, and would be very apt to come to the conclusion that the water was the cause of the disease.

Q.—Where do you in Chatham get your supply of water?

A.—We get it from the River Thames.

Q.—You purify it?

A.—We pump it into a sedimentation basin, let it remain there a certain length of time, and then pump it through our mechanical filters.

Q.—Explain in a plain way what "mechanical filters" means?

A.—Mechanical filters are filters by which the water is forced through sand and gravel, and some charcoal, I think—or used to be—and I think they still use

some charcoal, but principally sand and gravel of different sizes. It is forced through very rapidly. These different bodies through which it filters are arranged in layers in a large boiler-like tube, and passes from above below, and in our case we put it through two of these filters, from one to another, before it is delivered to the city's supply. I don't think that I have explained it very well, after all.

Q.—Previous to putting it through the filter, do you give it any other treatment than the sedimentation?

A.—Yes; with each pump, each movement of the piston of the pump there is a certain amount of alum injected into the water as it goes through; the alum acts as a coagulant, and coagulates the silt or clay, so that it is easily caught in the filters.

Q.—And it gives you a pretty fair supply, does it?

A.—I have been Health Officer ever since it was introduced, and have taken particular pains to trace, as near as possible, our cases of typhoid fever, and I have had the other medical men I think interested for a number of years, and we have not been able to trace a single case of typhoid fever to drinking city water exclusively. We have, in addition to the supply from the city, some wells, where we have not been able to get water piped to some of the outside streets, and we trace our typhoid to those streets where they use the wells, or to a person who has been travelling quite a bit and away from the supply of water. I think in every case except one—there was a little epidemic we had to follow up—we traced it to a woman who peddled milk in a pail; she had typhoid fever in the house, and lived just outside the city, and there were 18 cases traced to that woman who carried milk around. She washed her pails in the same water the family drank their water out of, and, undoubtedly, it spread the disease to the family as well as to the persons she sold the milk to.

Q.—Here we have eliminated all other sources handled but the water; the milkmen have all been visited, or at least all who have been actively engaged in the business, and there have been no cases of typhoid fever during the past epidemic in houses from which the milk is delivered or handled. If you had a situation such as is here in Sarnia, where it is plain that the water supply is contaminated, and the people are looking for a better supply, would you have any advice to offer, in view of your experience, as to how they should begin?

A.—Well, I have known something about the situation in Sarnia for several years, and have taken some interest in it, and have, perhaps, made up my mind that the source of the water supply is the cause of the great number of cases of typhoid fever; I have also made enquiries sufficient to satisfy myself that they have not got the best supply, and that it will be perhaps impossible to make that a proper supply for the city. I have been under the impression for some time that some point from the lake, near Point Edward, would be better.

Q.—The Council would, no doubt, be grateful for any advice you can give them; what advice have you to give them as to what they should do?

A.—Get a competent engineer to go into the whole question and advise them —one who understands it.

Q.—Is that what you would recommend to your own city, under similar circumstances?

A.—Exactly.

Q.—Is there anything you can think of you can add to what you told us?

A.—I think not.

DR. LOGIE: Q.—How often in Chatham do you have a test of the water?

A.—We have not had our water tested very frequently, of late, because we thought it was pretty pure; we had no evidence that there was anything wrong with it. We had two or three tests I think made this summer, during the time there was some dredging going on in the river, and some of the material dredged out of one part of the river was dumped at a point above our intake. We had it examined I think on three occasions, and on the first two occasions we did find that there was colon bacilli, and we got alarmed. Of course by the help of the Provincial Board of Health we succeeded in getting the people that had the dredging contract to deposit their material from the barges below our point of supply, and since then I think we have had very good water. The water is examined by my inspector about every two weeks regularly, simply more for transparency, color, odor and so on.

THE COMMISSIONER: Q.—What is the matter with your water, is it a turbidity?

A.—The turbidity is the principal thing we have to overcome; but that is not an objection, either, because as a matter of fact it is never turbid. It is always sparkling and pure, after a proper filtration.

Q.—But previous to filtration?

A.—Previous to filtration it is a muddy water, and we take the precaution of examining it for its transparency, and would, of course, look into it very quickly if we found it showed any turbidity after filtration.

MALCOLM MCKENZIE, sworn, examined by The COMMISSIONER.

Q.—You were a member of the Board of Health last year?

A.—Yes.

Q.—And you are Chairman of the Board of Health for the present year?

A.—Yes.

Q.—Do you know anything about the suppression of reports of water analysis?

A.—No, I do not.

Q.—You were not here this morning when the reports of Dr. Vaughan, of Ann Arbor, were read?

A.—I was here when some of them were read.

Q.—Did you ever see those before?

A.—No sir, never heard of them before.

Q.—As a member of the Board of Health last year, you had something to do with health matters; did you form any opinion as to the cause of the epidemic?

A.—Yes, I did. The Board of Health last year, and the year previous, went into the milk supply, very thoroughly, I considered it.

Q.—With what results?

A.—When we first started to investigate we found rather bad conditions.

Q.—What year was that in?

A.—I think that was in the year 1909.

Q.—What did all that result in?

A.—That resulted in our engaging a competent Veterinary, to inspect, not only the cattle supplying the milk, but also the milk vendors' premises, and their vessels. His first report was bad, principally on milk vendors' premises, and in the way they kept their vessels. His next report, after we had instructed him to inform these different vendors that if they did not improve we could cancel their licenses, was very much better, and the reports from that time up until the

last report in 1911 improved all the time, until the last report, which was very good.

Q.—Then you have heard something about the report that the Inspector of the Provincial Board made about the milk conditions, that he inspected the milk conditions, and found there were no cases of typhoid fever which had any connection with any milk supply?

A.—I did not hear that.

Q.—That is the fact, and is in accordance with the efforts your board have made?

A.—Sure.

Q.—The elimination of not only the milk, which you had something to do with yourself, but the elimination of other sources suspected and investigated, would lead you to the question of what are the causes of the late epidemic?

A.—Well, of course, my opinion is that the late epidemic came from the water. I think I heard you this morning or this afternoon, in speaking of an epidemic in 1902, mention the number of cases. I happened to be one of the victims myself then. I had a very severe case of typhoid then, and also had a sister and a brother-in-law die of it.

Q.—It has been rather impressed upon your mind?

A.—Yes; but I don't know that I would trace it to the water.

Q.—But that is a long period of time back?

A.—Yes.

Q.—You heard the cases I read over here?

A.—Yes.

Q.—Were you rather surprised when you heard that for the first time?

A.—I was.

Q.—You were hardly aware that there were so many cases here?

A.—Well, no, but I thought there were a good many cases. Perhaps, being a member of the Board of Health, I heard more of it than I otherwise would.

Q.—I don't know whether you were here when I read a list of the deaths that had occurred in Sarnia?

A.—No.

Q.—Did you hear that?

A.—No.

Q.—I have a list of deaths in Sarnia, Chatham, and Windsor from 1900 to 1911, as follows:

	Sarnia.	Chatham.	Windsor.
1900	4	2	8
1901	5	9	5
1902	13	4	5
1903	14	2	4
1904	3	7	8
1905	3	3	6
1906	5	5	6
1907	8	5	12
1908	11	5	10
1909	8	7	5
1910	10	4	8
1911	14	4	7
	98	57	84

A lot of people dying from a preventable disease during that period of time?

A.—Yes, sir.

Q.—These returns I suppose are as nearly correct as it is possible to get them; they are reported in the Registrar-General's reports of the Province for each of those years?

A.—Yes.

Q.—And they were the reports given to us by the clerks of these municipalities?

A.—Yes. But don't you think we have a good many cases of typhoid come in here from outside sources?

Q.—But other places do also?

A.—Yes, but we are on the water front. I happened to be sitting here this morning alongside of Captain Reid, and he told me that this last summer they had had a very great number of cases of typhoid on their tugs, of men who had never been in Sarnia at all.

Q.—Cases which developed on the tugs?

A.—Developed on the tugs.

Q.—Yes, but just to give you the experience of another place regarding that; here are the hospital cases in the City of Chatham, where Dr. Hall tells us nearly all the cases were treated in the hospital; in January of 1909 there was one city case and one outside case, in March, one outside case, in May, one case, in July, one outside case, in August one city case and one outside case, in September six outside cases and one in the city, in October two in the city and two outside, in November two city and two outside, or a total of seven city cases and fourteen outside cases?

A.—Yes. Of course, I do not think you can compare Chatham with Sarnia in that respect.

Q.—But I am just reading it to show you that Chatham, which you say is not a fair comparison, has twice as many outside as inside cases?

A.—Yes.

Q.—Your hospital report here shows 59 town cases and 17 outside cases?

A.—Yes.

Q.—The year previous there were 35 in town and 25 outside; the table shows:

	Sarnia	Outside
1911	59	17
1910	35	25
1909	46	25
1908	49	20
1907	28	11
1906	41	9
1905	46	14
1904	18	11
1903	40	7
1902	73	17
1901	55	36
1900	58	34
1899	24	22
1898	10	26
1897	8	10
1896	2	6

A.—But in town we had a great many men sailing in the summer time, and they have brought home that fever with them.

Q.—Do you think they will be classed as town cases?

A.—They are not taken to the hospital at all. I have in mind a couple of cases that I know of, one off the steamer "Huronic," and one off the steamer "Hamonic," in which the man died. The men did not contract the disease here, because they were not here long enough.

Q.—It is more or less true of every place you go; it would be a difficult matter to prove that it was worse here than in other places, but I think all border towns would bear out the idea you have?

A.—Yes.

Q.—But the fact remains, which I think all must admit, that there are too many here?

A.—Altogether too many. What I believe is, that we have a source of pure water supply, and we are not taking advantage of it.

Q.—What, in your opinion as Chairman of the Board of Health, would be the proper course to pursue—I am not speaking of where you should go—but what is the best course?

A.—If it were left to me, I would certainly go and engage the best water engineer I could find in the country, and have him look over the whole situation and give me a report as to what he would recommend and what the probable cost would be, and then lay it before the people.

Q.—You think that is the only wise thing to do?

A.—I think so.

Q.—Is there anything you can add to what I have asked you?

A.—The question of ice. As a member of the Board of Health, I went up to inspect the ice they were cutting for the town supply this year; I went up with the Chairman and one other member, and as long as we take the ice supply from the bay we will be taking what in my opinion is not fit for anything but cooling purposes.

Q.—Supposing you allow it to be used for cooling purposes, what guarantee have you of it?

A.—No guarantee.

Q.—If a piece is put up against a block of butter?

A.—That is bad. But I did not consider that at all. When I said for cooling purposes, I mean that in every refrigerator there is an ice chamber, and you are not supposed to put the ice up against anything at all; there are supposed to be other chambers where you hang and lay your stuff, and it is supposed to be cool from your ice.

Q.—Is there a supply apart from cooling-purpose ice here?

A.—No.

Q.—Then your ice is going to go into everything?

A.—Certainly.

Q.—And into your ice-cream?

A.—Yes.

Q.—And into your whiskey?

A.—Of course that kills it.

Q.—Do you know the powers of the Board of Health in reference to ice supplies?

A.—No; we have asked the Provincial Board of Health several times to state what powers we had.

Q.—You have all the powers you can possibly have use for; for instance, nobody can sell ice in the town for any purpose whatever unless you have passed or given him a certificate that his place is a proper one.

A.—When you do that, does that mean that people are at liberty to use it not only for cooling purposes, but to put it into their water, and for other purposes, and then come back to the Board of Health and say that we sanctioned that thing?

Q.—Of course, for sanctioning the ice supply they take the responsibility, but it should not sanction any except the one kind, and that is that which is absolutely pure, for any purposes; suppose a party stores up ice for any purpose, you might ask what authority he has for that; your Board should lay out the places from which ice should be taken, and ice should be taken from no other place, and cannot be legally taken from any other place than you lay out; if parties cut and store ice from a locality which in your Board's opinion is not a safe one, then your Board can go and seize and confiscate that ice. That is the quickest way you can come at it; you can have the party who offends hauled up and fined, but the easiest way is, to put a padlock on the ice house.

A.—If you came to that in this town, for instance, you would simply cut out the ice supply.

Q.—Is there any place, in your opinion, where ice could be cut?

A.—Not in the bay.

Q.—But any other place?

A.—You might possibly get it in the lake, but it is very, very doubtful. For instance, I know one man living on the lake shore who went out one day and cut fifty cakes of ice, on a good field, and when he went out next morning there was no ice in sight—it had simply moved out—which is liable to happen in the lake at any time. So far as the ice supply goes, I do not believe that you can depend on the lake for it, for a minute. The same thing applies when you make artificial ice, as I told one member of the Board of Health last night, he was holding forth the claims of artificial ice, and I asked him where he was going to get the water, and he told me he would get it out of the taps. I ask, what is the difference, if he takes the water out of the taps and the sewers, or ice, and you trace your epidemic of typhoid to the water, what is the difference?

Q.—No difference.

A.—None at all.

Q.—Except that your chlorinated water now would be safe?

A.—It may be, and it may not be. It is only the good strong fellows that live in the ice, you know.

Q.—True, the freezing of the water would take out a lot of them. However, all I can say is that those are the regulations, and they show what your powers are; the difficulty you are up against is to get a safe source of supply?

A.—No doubt.

William H. Reid, sworn, examined by The Commissioner:

Q.—Captain Reid, you are familiar with the river conditions here?

A.—Yes.

Q.—How long have you been on the river?

A.—Twenty-five years, about.

Q.—You do not do any diving, yourself?
A.—I have done some.
Q.—Have you examined the intake?
A.—Not here, personally.
Q.—So you would not be able to say anything personally about that?
A.—No, sir.
Q.—It was one of your men who made the inspection?
A.—We have made two or three inspections.
Q.—What was his name?
A.—Louis Myers.
Q.—The last one?
A.—Yes.
Q.—Can we get him?
A.—Yes.
Q.—How long would it take to get him?
A.—He has his old clothes on now; he could get over here in three-quarters of an hour; he is at our shipyard at Port Huron.
Q.—You can telephone him?
A.—Yes.
Q.—Would you be good enough to do that?
A.—Yes, sir.

David Milne, sworn, examined by The Commissioner.
Q.—Mr. Milne, I understand you are a member of the council, or of the Board of Health?
A.—A member of the council last year.
Q.—Last year?
A.—For the last ten years, about.
Q.—Are you still a member of the council?
A.—No.
Q.—Are you familiar with town affairs, and the water conditions here?
A.—I know a little about them. I was Chairman of the Fire and Water Committee in 1909.
Q.—Were you aware that in 1909 the town had reports from an analyst showing pollution of the water, five different samples?
A.—I cannot say, sir, because I think they would hide that from me. I was opposed to the waterworks where it is now.
Q.—You did not know that?
A.—No.
Q.—There were five reports produced here, of samples sent to Dr. Vaughan, one from the mouth of the intake, and others from various points, all taken from the city water, and all bad—extremely bad—and it is rather curious you did not hear of them, is it not?
A.—I was opposed to the waterworks going there, and the Committees have always hid anything from my knowledge which would show that it was a bad place for the waterworks. I think that would be the judgment I would have of that. I may say for your information that in 1909, I think it was, Mr. Bennett of Port Huron put the intake pipe where it is in the city. I had at my own expense Mr. McCullough from Port Huron examine the intake pipe. After he examined it I was not satisfied; I had William Constable, who has had a good

deal of experience as a diver in the West Indies, I said I was in trouble and wanted to get somebody to examine that intake pipe; he said he would examine it; I asked him if he had any experience, and he said he had; so I told him I would pay him for his work, and he went over it and said it was tight, that the bolts were in, and everything as far as he could judge was tight at that time. But it has been broken during my time at the Council three times since it has been put there.

Q.—You are satisfied that it is broken now?

A.—Yes.

Q.—Do you think it is liable to be broken again?

A.—At any moment. There is no question about that; it is navigable water. A big propellor comes up there and finds herself in the wrong channel, the captain will certainly let go his anchor, to stop it.

Q.—In view of that, what do you say about the supply of water in that source?

A.—I have always said that if the town is going to grow it never can be good from that source, more especially with a south wind.

Q.—Do you know anything about the currents?

A.—With the south winds, the current would be very limited at that particular point, but with the ordinary current it would run from three to four miles an hour.

Q.—Do you know of any currents that would be liable to carry contamination from the bay out about the intake?

A.—If there was a freshet, there would be bound to be a current out of the bay.

Q.—Did you ever hear of the suction of a vessel throwng a schooner up on the wharf; we had evidence here yesterday that a large vessel passing along rapidly made such a wash that the schooner was thrown up on the wharf.

A.—My knowledge as a sailor is limited, but I would say it would hardly be possible; it would break her lines lifting her up; the raise is probably three or four feet.

Q.—The harbour-master said that yesterday?

A.—I could not contradict him.

Q.—That would indicate a great deal of disturbance in the river and in the bay?

A.—Yes.

Q.—Would that carry contamination to the intake?

A.—Mr. Turnbull and myself put in a paper just above the present ferry landing, and two days after we found it up where the eastern steamers are lying now, about, and that is above our intake pipe; the "Northwest" and "Northland" running closer into our dock will take a very heavy suction from our sewage up as far as the upper end of our bed; boats running ten miles an hour and drawing fifteen feet of water, with a tremendous wash, will be bound to carry it up; it cannot possibly avoid doing so.

Q.—Is there anything else you desire to add?

A.—I don't know that there is anything, merely that if the people of the town want clean water the sooner they get the pipe away from there the better. I have always said so.

William H. Reid, resumed, examined by The Commissioner:

Q.—You are aware of the position of the intake; you have been over the ground?

A.—Yes, sir.

Q.—Do you think that the intake suffers any liability to be broken by vessels, or by their anchors?

A.—It would, if the vessel dropped anchor so as to catch it.

Q.—Is there anything to stop a captain from dropping his anchor any place he wishes to?

A.—No captain would anchor at that place if there was a mark there.

Q.—But if you were a captain coming from Montreal you could hardly keep track of the intakes?

A.—No, but the captain from Montreal would not go in there; he would stop below and find the conditions up above.

Q.—Supposing he encountered a fog, and found himself too close in shore, or suppose that in the neighbourhood of the intake to avoid a collision he had to get over there and drop his anchor, you will admit that circumstances might occur that any captain might be obliged to drop his anchor in the neighbourhood of the intake?

A.—Any place in navigable water a captain is liable to drop his anchor. It would not apply to the river or to the lake any more than to any place else.

Q.—He would not do it wilfully, but if circumstances obliged him to, he would not consider the intake or anything else?

A.—If there was something to warn him, he would not drop the anchor.

Q.—He would not if he could help it; but something might occur that he could not help it?

A.—True.

Q.—For instance, we had Captain Foote here yesterday; he would not drop the anchor to injure the intake if he could help it; but circumstances might compel him to drop it at any place?

A.—That would be correct.

Q.—Then you could never be sure of the intake being safe, there?

A.—I should think it could be guarded so it would be safe, by putting up buoys, or something, to indicate that there was a pipe there.

Q.—But that would not guard against accidental circumstances such as we have been discussing?

A.—They might run into the buoy.

Q.—Do you know anything about the effect of large vessels passing up and down, on the bay?

A.—Yes, sir.

Q.—What effect do they have?

A.—They make a motion on the surface.

Q.—You could not say how deep that extends?

A.—I know in our wrecking operations we have had divers working very little under the surface; the motion of a wave or a boat passing would not have any effect upon them. It makes a noticeable effect upon the surface, though.

Q.—Would the suction of the vessels have any effect upon taking surface water out to the intake?

A.—I would not think so.

Q.—Why wouldn't it?

A.—The current passing so rapidly; it must be 200 feet or more from the inside of the end; the water would not have an opportunity to get out.

Q.—I understand that the mouth of the intake is not in the current?

A.—You would think so, if you were out there.

Q.—Is it in the main current?

A.—Yes, absolutely.

Q.—Would there ever be a chance of sewage or polluted water from the bay being carried into that channel?

A.—No chance whatever.

Q.—That is, the current runs down the centre of a wall of stationary water?

A.—Which?

Q.—There is a wall of stationary water on either side, and the current runs down the centre?

A.—I should say the current must be 200 feet inside of the intake.

Q.—The intake extends 20 feet out in the current?

A.—That is where you get the real heavy current. There is a current inside of that, but a less current.

Q.—Inside of where there is a current is the dead water?

A.—Yes; it is a current working in and out.

Q.—Did you ever hear of a current passing upwards, past Clark's dock, and then passing upwards in the river?

A.—Yes, I have, but you go outside of Clark's dock 100 feet and you find an entirely different condition; you get the same current there that you get out at the intake pipe, or practically the same. But right in at the dock, it is practically dead water.

Q.—If what you say is correct, how do you account for contamination having been found at the mouth of the intake?

A.—It must come from the lake, or up in the rapids some place; it never came out of the bay.

Q.—Would it come from the neighbourhood of the mills?

A.—It could not, possibly.

Q.—Would it be possible for it to come from the boats passing down?

A.—It might.

Q.—The boats would leave a good deal of excreta and impure stuff?

A.—They might, but that would be the only way it could come, that I can see.

Q.—But if you consider that that has been found contaminated at the entry or the neighbourhood of the intake, by competent experts, in 1909 and 1905, what would you say about that?

A.—If by an actual test they found a contaminated condition there, it would be absolute, I would say.

Q.—Water that is even contaminated once a year would hardly be safe?

A.—No, it would not.

Q.—Of course you might have it at various other times you would not know anything about; 150 feet out, would those be rapids?

A.—Yes. There is no sewage to speak of between the out end of the intake pipe and the rapids; there is no sewage water that would come to the pipe, that I can see.

Q.—You think the bay water would not take it there?

A.—No possible chance. We have made tests with our boom logs. They drift out a way, and then they drift over into the dead current and back up into

the bay; anything that gets out say 300 feet from our dock will go on down the river; anything that comes inside of that is liable to drift right inside the dock, in dead water.

Q.—Is that where you take your tug?

A.—Our tug is on the north line of the city waterworks.

Q.—Were you on the tug that night?

A.—No; I was not there that day.

Q.—It was a little above the waterworks?

A.—Yes.

Q.—You say that 300 feet out from your dock, anything that gets out past that would go on down the river?

A.—Yes.

Q.—With the current?

A.—With the current. It would take it right down the river.

Q.—No possibility of contaminated water 300 feet out from your dock?

A.—There might possibly be, but it could not go out any further than that.

Q.—If there might be contaminated water 300 feet out, would there be any chance of it getting down to the intake?

A.—I cannot see how it would, because there is a three-mile current out there all the time.

Q.—But this water mixes?

A.—The line is so near that you can take a boat and run out into the current, and it will stop and turn around; we simply go out to the edge of the dead water and the boat will turn around and then go on down the river.

Q.—Supposing the contaminated material sunk lower down in the water?

A.—The body of water would be more solid below than on the surface; if it would scatter at all, it would be more likely to scatter on the surface. To my notion, if the water was contaminated you might get it farther down the river; there is practically nothing above the intake pipe to give it that condition.

Q.—They say there are about 500 men in the mills, and they are above the intake?

A.—Yes, but all the sewerage from the mills goes down on the inside; there is an inside channel that goes right down along the docks. I can readily account for an inferior water in that dead water; anything that comes down in that certainly would be inferior water—no question about that.

Q.—Where the intake is broken, you would expect bad water there?

A.—I would.

Q.—I understand the intake was extended in 1905?

A. I believe so.

Q.—It was put out in that year to a point 700 feet out?

A.—About 700 feet out, or something of that kind.

Q.—With the idea, I suppose, of getting better water?

A.—To get out into the current and get better water.

Q.—It has not improved the typhoid conditions?

A.—There might be various reasons for that. The pipe is broken, and they don't know how long it has been broken, but from all appearances it has been broken for a long period of time.

Q.—And that is something you could not guard against?

A.—Yes, you could, by making an examination once or twice a year.

Q.—An examination once or twice a year would hardly be satisfactory, it might be examined to-day and broken to-morrow?

A.—If a man wanted to do it in a strictly cautious manner, he might have somebody on shore to watch and see if anything went near it, and if so, they could go out and examine it. The boats do not go there very often.

Q.—It would need to be looked after very carefully?

A.—It could be looked after in that manner, I should think.

Q.—However, it seems to me that if water is the cause, as it is proved pretty well to have been, of the last epidemic, it did not improve since 1905, because in 1904 there were 18 cases in the hospital, in 1905, 46, and so on until 1911 when there were 59 in the hospital?

A.—That shows it is increasing. We have had a most peculiar condition on our boats this year. We had five cases on our boats this year, and not a case before in ten years. How could you account for it? They never got any Sarnia water.

Q.—Were they treated upon your boats?

A.—We brought three cases here.

Q.—There are a great many ways to account for it; you might have had a cook on your boat who was a typhoid carrier?

A.—Our cooks are very regular men. We do not change them very often. We had the boats disinfected. I am just citing this as a most peculiar condition.

Q.—If you could eliminate your cook, or any other carrier, you would have to eliminate your milk and vegetables, including the water?

A.—I am just citing this as a condition we got.

Q.—You are citing that as a solution of why they had so many here last year?

A.—No, I am just citing that as a condition we ran into ourselves; the boats were not trading here at all.

Q.—The Town of Sarnia has not only had an enormously large typhoid rate for the last year, but they have had the same condition away back since 1898, practically speaking?

A.—You asked me my idea. If by a chemical and practical test they find the water not pure, then it is time to change. I am simply giving you my ideas. I would agree on a chemical test, and if they found that the water is impure, that is all there is to it.

Q.—All these men who have made the tests are independent?

A.—I do not take any exception to their tests at all.

Q.—And Dr. Vaughan, of Ann Arbor, made an examination?

A.—You could not get any better evidence than that.

Q.—And the chemist of the Imperial Oil Works made a test?

A.—I would agree to that kind of test. There is nothing better. I was simply citing the conditions we ran into, and giving you my idea that with a pipe extending out into that current that far, you should get the lake water. If it is not pure, we should have to go some place else.

DR. R. W. BELL: You are evidently under the impression that there is no probability of that water being contaminated with the intake?

A.—I don't understand exactly what you mean. I have been informed that there is a current starting at Cromwell Street. We call it dead water, because it works with the tide—works in and out.

Q.—It is running northward?

A.—Yes.

Q.—How wide would that back current be?

A.—It is wider at some points than at others. I would say that it starts at Clark's dock, about 100 feet out, and when you get up to the waterworks it would be about 300 feet, and if you follow the shore line it would extend from that 300 feet up to above the end of the Cleveland Mill dock, so it would be quite a wide space up along the bay.

Q.—Do you mean to say it immediately turns around, and goes back parallel?

A.—No, it does not go out into this current at all; it just makes an eddy in the dead water.

Q.—But where does it get out?

A.—It works up one hour and back the next; it will go up one hour and then recede.

Q.—Right in the same channel?

A.—Right in the same channel.

THE COMMISSIONER: Q.—What causes that?

A—The wind has the greatest effect—an east wind will lower the water and a west wind will raise the water; a north wind affects it, and a south wind blowing up the river strong will lower the water, and a north wind will raise the water. When you get out in the current it is always three miles an hour, and sometimes it will be half a mile more. Divers go down weighted heavily, and they have to tie themselves down there to work on the end of that pipe. Our diver will explain that to you. It is a strong current, at the end of that pipe, and from my own knowledge of the conditions around here, I do not see how you could get any affected water out there. Of course, if you have tested it, that is all there is to say about it.

DR. PELL: Q.—Take it at the end of the trestle, can it be polluted there?

A.—No polluted matter up there.

Q.—But there are several hundred men working up there?

A.—All that sewage comes down on the inside channel.

Q.—Are there not men working at the far end of the trestle?

A.—There are, but that is not striking the current: that is at the shore.

Q.—I understood you to say that you did not think there was any possibility of pollution out in the stream, unless from the boats?

A.—I do not see, any more than in the lake.

Q.—Are there not 300 or 400 men at the Point Edward docks?

A.—There are some.

Q.—Are you aware that there are a lot of water closets right over the water, with a scantling, where the men can sit along like a row of sparrows?

A.—But would that be effective?

Q.—Isn't all that excreta falling into the stream that is running down to the intake, right from the docks of the Northern Navigation Company, where they have several hundred men; I have seen the water closets and know where the men sit, and have seen where the whole thing goes right into the stream; and the boats are flushed, are they not—but that is not so bad as the excreta from these men: they are not only there in the summer, but now?

A.—They are up there now.

Q.—Those men are working there all winter as well, and if any of those men had typhoid fever and the excreta dropped down into the water, that is coming down in the main stream?

A.—There would be some possibility there, but you would imagine that with a swift current it would dissolve; but how about the poor fellow down the river, what is he getting?

Q.—He is taking his chances?

A.—I think he must be.

William J. Proctor, sworn, examined by The Commissioner:

Q.—Mr. Proctor, I understand you are, or have been, a member of the Council for a number of years?

A.—Yes.

Q.—And have had something to do with the water supply, been on the Fire and Water Committee?

A.—Not for a good many years.

Q.—However, you are familiar with the water question here?

A.—Fairly well.

Q.—Can you give any information that might be of value to the citizens?

A.—I don't know that I can. I am one of those that have been in favor for a number of years of going to Point Edward, and have filtration there.

Q.—You are not in favor of the present supply?

A.—No. I was 14½ weeks in bed with the typhoid fever, myself.

Q.—Why are you not in favor of the present supply?

A.—Since the mills have gone up on the bay, and the droppings at Point Edward, if there is such a thing as water being contaminated, we get it.

Q.—You think that what Dr. Bell spoke about to Captain Reid just now, would be a factor in the pollution of the water?

A.—I cannot say whether the droppings would have any typhoid fever in them, but I think the thought of the thing is enough to have it removed from there.

Q.—If the men working in the mills had typhoid fever, or had previously had typhoid fever, the excreta would carry the diseased germs?

A.—I have been informed that that is the case.

Q.—I believe there is a man working up there now who has just come out of the hospital?

A.—If there are any germs out in the water, it would not be any better than it was before, because it is just in the same place as it was when the water-works was first established.

Q.—You are of the opinion that carrying out the intake did not improve the situation?

A.—No, because at the house they have been boiling the water ever since I had the fever.

Q.—From your knowledge of the river, would you say there is any possibility of contamination being carried out from the bay to the intake?

A.—Possibly; a couple of dredges coming in from Sarnia Township, a pollution coming from the stables, all empty into that pit, and they would find their way down the river there, I would think.

Q.—Do you consider the intake could be made safe where it is?

A.—No, I do not consider that it should be left there five minutes if it could be taken out.

Q.—Is your waterworks in a safe position in case of fire?

A.—They are just as good the way the intake pipe is, as they ever were, as far as fire is concerned.

Q.—But is it safe in case of fire?

A.—I advocated not spending any money at all on the intake pipe. The people have got into the habit of boiling the water. I advocated to take it out of there as soon as we could get it out.

Q.—As a first move towards getting an improvement, what would you advise?

A.—About seven years ago an engineer came from Toronto—I think his name was Mr. Chipman; and we had one from Detroit go over the ground, and Mr. Milne spent a lot of his own money in bringing some one here to examine the place, and we went to Point Edward to see what filtration we could get there. We put down a small well six or seven feet deep, got a threshing machine and took it up there, and we could not pump it down at all with the machine, so it showed there was any amount of water flowing through the sand and gravel there. It would require a pretty large basin to hold enough for a town.

Q.—But I want to get at what your idea is of a preliminary way to get a better supply, I mean, to find out where the best supply is.

A.—That is the only supply I would consider, taking it away by filtration; I would not consider it was any good, to go into the lake.

Q.—Would you think it was a good thing to employ a competent man to advise you?

A.—We considered we had competent men before. We have their report. The citizens were so satisfied that five more votes would have carried it.

Q.—But supposing the Council is not satisfied with that report, will you be in favor of getting further advice?

A.—I am in favor of that report.

Q.—If you could not persuade the majority of the council to adopt that report, would you be in favor of getting further advice?

A.—Well, you get three doctors to swear one way, and three to swear another way, and I suppose engineers are the same.

Q.—And Judges too?

A.—Yes, sir.

Q.—The Judges complain about the doctors not agreeing, and you do not get the Judges to agree?

A.—Very often they do not agree.

Q.—If they do not agree, the best thing to do is to get further advice?

A.—I do not require to get further advice; I would say, to go up there.

Q.—You do not need it for yourself?

A.—No, and I think if we could get a vote on it at the present time we would get a large number in favor of it.

Q.—You would not be favorable to getting an engineer's opinion upon the whole question?

A.—I do not think we can get any better than what we have.

Q.—Would you be in favor of getting any further report?

A.—I would not object if they got a third one; we have had two or three first-class men here already.

Q.—But you would not object if they wanted to get any more advice?

A.—No, certainly not.

ALEXANDER KELLY, recalled, examined by THE COMMISSIONER:

Q.—We will take this as a continuation of your evidence yesterday; since you were examined yesterday some reports have come to light, and I understand that you had some idea that reports were being suppressed, did you know anything about that?

A.—No, I cannot say that.

Q.—Do you know anything about water reports that I have not asked you?

A.—I never knew of any water reports that were suppressed.

Q.—You were a member of the Council at the time—1909?

A.—Yes; I was connected with the Fire and Water Committee.

Q.—Did you see a report from Dr. Vaughan, of Ann Arbor, in that year?

A.—Yes; I heard of the report.

Q.—You did not see it?

A.—No; at least I understood, as far as I can recollect about it; what was the state of the typhoid that year?

Q.—46 cases in the hospital—possibly 120 cases altogether, according to the evidence of the doctors who have come here.

A.—At that time?

Q.—Yes.

A.—Then it must have been something of that kind that I understood, because the Board of Health could not have been very active if I had anything to do with it, because I was on the Fire and Water Committee, and I think it was suggested that the only parties on the Board of Health I came in contact with at that time or that I knew were interested in the health of the town was Dr. Pousette, and I recollect now of it being suggested by the Doctor that somebody should get some tests of water and send them to Dr. Amyot of Toronto, and there were five samples taken, to my recollection, and if I can remember right—of course I did not take down any dates of it, because I hardly thought it was my place to do so—I was taking an interest in the conditions, although it was not my business or anybody's business on the Fire and Water Committee to look after the quality of the water; it is the business of the Board of Health to deliver water to the people and for fire protecton. I probably took that much interest, anyway; and those tests were sent to Dr. Amyot and were not very favorable, and I think it was at the same time suggested to Dr. Amyot that there should be five of the same tests sent to Ann Arbor, and they were sent over, and the reports came back, and I asked Dr. Pousette what he thought of them. I have no recollection of seeing them. I did not think it was any of my business to see them. What Dr. Pousette said, to the best of my recollection, was that those tests did not amount to anything.

Q.—I don't think Dr. Pousette saw them.

A.—Well, that is what you think.

Q.—Dr. Pousette did not send them?

A.—I don't know anything about that. I am telling you about him seeing the reports, because I certainly asked Dr. Pousette what he thought about the reports, and his answer to me was that the test was not a chemical test.

Q.—Dr. Pousette saw the tests that were sent to Toronto?

A.—I know that.

Q.—And all of them showed infection?

A.—The first test.

Q.—September 3rd, 1909?

A.—When were the next tests sent to Toronto?

Q.—On the 13th of September, 10 days after; your memory is correct, the first one bears your name?

A.—As Chairman?

Q.—Alexander K. Kelly?

A.—I was Acting Chairman of the Fire and Water Committee.

Q.—There were four of them sent to Toronto, and all showed colon bacilli?

A.—Yes.

Q.—And high chlorine count?

A.—Yes.

Q.—And chemical pollution?

A.—Yes.

Q.—The first one was received in Toronto on the 30th of August, the second was received on the 9th of September, and three out of the five showed infection with colon bacilli?

A.—These were better than the first ones, were they not?

Q.—The first were four out of four, and the second were three out of five bad; (examining reports by Dr. Vaughan) all of these waters were sent to Ann Arbor about the 10th of September?

A.—They would be the same waters. As I say, the first test was sent to Toronto.

Q.—These samples, anyway, Dr. Vaughan said about the same thing of, "This water should not be used. It is bad, both quantitatively and qualitatively. It contains a typhoid-like bacillus, and contains too many bacteria. It is dangerous." It contained 16,500 bacteria at 20 degrees, and when it was heated to 38 degrees, 42,322 bacteria?

A.—That is going some.

Q.—There we have a confirmation of the whole thing, and it is just as I say, the waters that were sent about the same time?

A.—Yes, and afterwards there was another lot of water sent to Toronto.

Q.—Did you yourself send any to Ann Arbor?

A.—No, sir.

Q.—Or did you get any reports from Ann Arbor regarding any water, yourself?

A.—No.

Q.—Have you had any correspondence with Dr. Vaughan yourself about the water question?

A.—No.

Q.—Carry your memory back to 1909, or some year, and recollect if, when you sent to Toronto, you did not send some also to Ann Arbor?

A.—That is, for one of these tests?

Q.—Or at any time?

A.—I mind writing a letter to Dr. Amyot.

Q.—I am not asking about Dr. Amyot—I have it here before me—but did you ever at any time send water to Ann Arbor to be examined?

A.—No, sir.

Q.—You are positive about that?

A.—Positive.

Q.—You would be satisfied anyway with the reports we got from Ann Arbor and Toronto; you would be satisfied to accept them as correct?

A.—I don't know. Do you suppose I am an authority on that?

Q.—But would you be willing to accept the evidence of an expert like Dr. Amyot?

A.—Yes.

Q.—Or Dr. Vaughan?

A.—Certainly.

ALEXANDER K. WANLESS, sworn, examined by THE COMMISSIONER:

Q.—Mr. Wanless, you are Editor of the *Observer* here?

A.—Yes.

Q.—You are also Secretary and Treasurer of the Company?

A.—Yes, sir.

Q.—And I suppose you have something to do with the directing of the policy of the paper?

A.—Somewhat.

Q.—What has the policy of your paper been in respect of the water question here?

A.—I don't consider that that has anything to do with the cause or causes of typhoid fever.

Q.—Well, will you answer, what the policy of your paper has been, as indicated?

A.—That is my answer.

Q.—You won't say what your policy is?

A.—What has that got to do with the cause of typhoid?

Q.—I am asking you the question?

A.—And I am answering it by asking you one.

Q.—When we get to the proper place you can do that. But I should like to ask you again what the policy of your paper has been in respect of this question.

A.—I don't think the policy of *The Observer* has anything to do with the cause or causes of typhoid fever.

Q.—If you do not want to answer it, say you will not answer it; will you answer it, or not?

A.—I do not care to answer it.

Q.—How many analyses of water have you seen?

A.—I don't know.

Q.—Have you seen any?

A.—Yes, sir.

Q.—Have you seen more than one?

A.—Yes, sir.

Q.—How many have you published in your paper?

A.—As many as I saw.

Q.—Did you ever see any that you did not publish in your paper?

A.—No, sir.

Q.—How is it you published the good analysis from Dr. Vaughan and not the bad ones?

A.—Because they were given to me.

Q.—Did you endeavor to secure all of them?

A.—I did not know of any others.

Q.—Were you not aware that there were analyses made by Dr. Vaughan in 1909?

A.—No, sir; don't know who Dr. Vaughan is.

Q.—You do not?

A.—No, sir.

Q.—Didn't you see this article in your paper on the 11th of January, where you published over the signature of V. C. Vaughan an analysis of water?

A.—I may have seen it, but I do not recollect it now.

Q.—You do not know who V. C. Vaughan is?

A.—Don't know the gentleman at all.

Q.—Don't you know who he is?

A.—I believe, now that you have brought it to my memory that he has something to do with the University of Michigan at Ann Arbor.

Q.—(Showing papers to witness)?

A.—I recognize that in connection with some reports I got from the City Engineer; I think that was the name.

Q.—Do you read your paper?

A.—Once in a while.

Q.—You have heard a good deal of the evidence here?

A.—I have heard some of it.

Q.—From what you have heard, are you willing to admit that there is typhoid here?

A.—They say there is typhoid here.

Q.—Are you willing to admit that there is an epidemic of typhoid, or that there has been an epidemic of typhoid fever in Sarnia during the last year?

A.—I would take the physicians' statements.

Q.—The physicians' statements are that there has been a tremendous outbreak of typhoid fever here in 1911.

A.—I would take their statements as correct. I have no reason to doubt them.

Q.—What do you mean by saying in your paper continuously that there is an "alleged" epidemic?

A.—Anything that appears in the *Observer* has nothing to do with the question of typhoid. The policy of the *Observer* is not at issue here.

Q.—I want to know what you mean by stating in your paper that there has been an "alleged" epidemic; that is a fair question.

A.—That is a question I do not care to answer.

Q.—Can you answer it?

A.—I don't think it has anything to do with it.

Q.—Can you tell me what you mean by an alleged epidemic?

A.—What the word "alleged" means?

Q.—Yes.

A.—Supposed to be.

Q.—"Alleged epidemic"—that is what you have been saying in your papers; what do you say about it now?

A.—I don't say anything about it. I say there has been typhoid fever in town.

Q.—But has there been in 1911 an epidemic of typhoid fever in the town?

A.—You can call it that if you wish; I am not saying whether it was or not.

Q.—I am asking you, and you are bound to answer the question; what is your opinion about typhoid conditions in Sarnia during the last year?

A.—I don't know.

Q.—Will you say there was epidemic, or not?

A.—Some would call it an epidemic.

Q.—Would you call it an epidemic?

A.—I don't know whether it was or not.

Q.—If you don't know whether it was, how much value is it to the people of this town when you call it an alleged epidemic?

A.—That is a matter of opinion.

Q.—But I am asking the question.

A.—I don't know.

Q.—I believe you.

A.—I am not doubting you.

Q.—What do you mean by going on from day to day discrediting any one who asserts that there is a great deal of typhoid fever here?

A.—I don't know that I have discredited any person.

Q.—Will you admit that during 1911 there was a great deal of typhoid fever in Sarnia?

A.—There were several cases of typhoid fever in town.

Q.—Will you admit that there were as many as 150 in Sarnia during 1911?

A.—I don't know.

Q.—All the doctors in town with the exception of one have given evidence to that effect: the Health Officer and the Clerk of the town have given evidence to that effect; would you accept that as evidence—what they have said?

A.—I am not an authority on it.

Q.—I am making them the authority—the Health Officer and the Clerk of the town: the Clerk said that the doctors had reported 150 cases of typhoid fever to him during the year 1911.

A.—Are you asking my own private opinion?

Q.—No, but will you accept that as evidence that there was?

A.—Privately?

Q.—I am asking you as any other man.

A.—Yes. I have no reason to doubt their statements.

Q.—I only want your evidence as a man. You have not one opinion as an editor of the *Observer* and another as Mr. Wanless? I am only wanting your opinion as a man; I want your opinion as between man and man, but you are hedging and don't want to answer the question?

A.—I am telling you that the policy of the *Observer* has nothing to do with the cause or causes of typhoid fever.

Q.—We will go back, and I will ask you what is your opinion of the epidemic of typhoid fever—in the opinion of Mr. Wanless?

A.—There were a large number of cases.

Q.—And an epidemic of typhoid fever in Sarnia?

A.—The same thing.

Q.—And 150 cases in Sarnia during 1911, would you dignify that by the name of an epidemic?

A.—You could if you wished.

Q.—Well, would you, or would you not?

A.—It would depend upon circumstances.

Q.—If it is proven here that there were 150 cases of typhoid fever in Sarnia during 1911, would you say that was an epidemic?

A.—You could call it that.

Q.—Would you call it that?

A.—I suppose so.

Q.—You wrote an editorial paragraph in your paper of the 19th of December, 1911, which I will hand to you. (Shows to witness.)

A.—That is the private business of the Observer Printing Co.

Q.—I don't care whether you answer it or not.

A.—That is all the answer I will make to it.

Q.—Usually newspaper men are prepared to back up what they say, but apparently they are not all able to do that; so you won't answer the question?

A.—I answered it in that way—that that is the private business of the Observer Printing Co.

Q.—No, that is public business?

A.—And anything that appears.

Q.—A public newspaper is one that talks about public matters, and if a newspaper is able to discuss public matters in its columns, its editor ought to discuss matters in an investigation of this kind, and the only thing I can take is that you are ashamed to back up what you say in your paper; you do not need to answer it unless you like. Are you prepared to admit that the water supply here is contaminated?

A.—I don't know.

Q.—You heard the evidence of Dr. Amyot yesterday?

A.—Some of it.

Q.—And of Dr. Nasmith?

A.—Yes.

Q.—And heard the evidence of George France this morning?

A.—No, sir.

Q.—You heard the evidence of the two yesterday?

A.—Yes.

Q.—About the examination of the water?

A.—I was here part of the time.

Q.—Did you hear the report of analyses made by Dr. Vaughan of Ann Arbor, which I read to-day?

A.—I heard some reports, I could not say which ones they were.

Q.—You heard reports that the water was contaminated?

A.—Yes.

Q.—In view of that, what is your opinion about the quality of the water supply?

A.—About those samples?

Q.—No; I said the samples were examined, and showed that the water supply of the Town of Sarnia was contaminated; in view of that, what do you say about the water supply; do you say it is good, or bad?

A.—The analyses have shown both good and bad tests.

Q.—Of course—any water will do that?

A.—That is all I am prepared to answer; nothing further.

Q.—If the analyses showed both good and bad, would you say the water supply was good?

A.—I am not an authority on it.

Q.—I am not asking you to be an authority on it; most of the people could answer that. What is the use of hedging around and trying to back down, why don't you answer yes or no? You know very well that if samples are examined from a source of supply, and some show good and some bad, you know what your opinion is, whether the water supply is safe or not; you are not afraid to express it in your paper week after week or day after day, why don't you stand up like a man and express it now?

A.—I don't know that samples taken from the mouth of the intake pipe have ever been proven bad.

Q.—Well, I will read you an analysis by a man whom you will believe, and ask you what you think about it; on the 10th of September, 1909, there was a report from V. C. Vaughan, Director of the Michigan State Laboratory of Hygiene, at Ann Arbor, of an analysis of water taken from the mouth of the intake. After 48 hours, at 20 degrees, there were 16,500 bacteria, and at 38 degrees, 42,3?? bacteria. Dr. Vaughan says, "This water should not be used. It is bad both qualitatively and quantitatively. It contains a typhoid-like bacillus, and it contains too many bacteria. It is dangerous."

Will you give me your opinion about the water supply from which that sample had been taken?

A.—I would consider it was dangerous.

Q.—I have been trying to get that from you all along, and why didn't you tell me? Now we have numbers 1, 2, 3, 4, and 5, taken from the taps of the town, the civic water supply, waters taken from the town water supply taps, according to the gentleman who has just spoken—Mr. McLean—who took the samples and sent them to Ann Arbor. That is correct, Mr. McLean?

MR. MCLEAN: That is correct.

THE COMMISSIONER: All these reports show that that water was bad. What have you to say about it, would it be safe to drink that water? Perhaps I had better read them to you, one after the other; this is one taken on the 10th of September, 1909; they were all taken on the same day and sent to the same place, and in one 38,474 bacteria were found at one time, and 42,120 at another, and that sample was condemned on account of the number of bacteria; and "It is assumed that the containers of these samples were sterilized before being filled with water. Of course, if the bottles were dirty before being filled these samples are not reliable."

I asked Mr. McLean if these bottles were sterilized and he said they were. What do you think of it—"This water is condemned on account of the number of bacteria"?

WITNESS: I would not want to drink it.

Q.—What Mr. McLean wanted to call attention to a minute ago was this, that the sample he took from the intake, he was not thoroughly sure of its character, as he thought it very difficult to take it from there; isn't that what you want to say Mr. McLean?

MR. MCLEAN: That is right.

THE COMMISSIONER: I want to be perfectly fair. Take sample No. 3, examined by the same gentleman, after 48 hours at 38 degrees, 405,000 bacteria. "This contains the colon bacillus and should not be used. The number of bacteria is also too large." What would you say about that, Mr. Wanless?

A.—I would not care to drink it.

Q.—Here is another one with 18,720 bacteria—"not so bad, but still the number of bacteria is too high"; what would you say about that?

A.—The same thing.

Q.—Here is one at 20 degrees, 125,550 bacteria, and at 38 degrees, 278,675 bacteria. It is said to be not clean water and that the number of bacteria is too high, and it is condemned on account of the number of bacteria. What would you say about that?

A.—The same.

Q.—Then would you say that the water supply here is not safe, in view of those analyses?

A.—I do not say that.

Q.—You say you would not drink it?

A.—I did not say that. I would not want to drink those samples.

Q.—You would not want to drink water from where those samples were taken; would it be safe, on the day those samples were taken?

A.—I don't know.

Q.—Do you think it would be?

A.—I don't know whether taking one sample from the river would say that the whole River St. Clair was polluted.

Q.—But four of these were taken from the taps; would you think it would be safe to drink from the tap water that day?

A.—I don't know.

Q.—All right. I will leave you with the people of Sarnia. That will do.

Dr. R. W. Bell: Q.—Did you hear any medical man in town here state that 25 per cent. of the 114 cases of typhoid fever reported the week before Christmas were not typhoid?

A.—The cases you reported?

Q.—Yes.

A.—No, sir.

Q.—You told me so in the Vendome Hotel the other day?

A.—I beg your pardon.

Q.—You told me that 114 cases of typhoid fever had been reported after the first of November, and that medical men on the streets of Sarnia had stated that there were 25 per cent. of those cases that were not typhoid fever.

A.—I beg your pardon.

Q.—I challenged you in regard to that, and you admitted that it was not in those 114, but they said that 25 per cent. of the cases talked of on the street were not typhoid, and I had to argue the question out with you, that the doctors in town had given me those as cases, and still you persisted in another argument or two that those cases they had denied; I think every doctor in town has been asked, except one, if those cases were indeed typhoid, and I think they have all given evidence that they were.

The Commissioner: Every doctor has sworn to that. We have examined every doctor who has reported, except one, and they have all sworn that the cases reported to Dr. Bell were undoubtedly typhoid cases, and have sworn that this town has had an epidemic, not only last year but for years back.

Dr. Bell: Q.—An insinuation was thrown out in the *Observer* that those were not all typhoid fever?

WITNESS: Not that I know of.

Q.—I have been told that those 114 cases were called in question in the newspaper, and I want to know positively whether any of the doctors, since giving these cases, have gone back on their statements, and made any statement to you that would possibly show that those 114 were not typhoid. However, that is satisfactory. I only want to put it here.

A.—You are referring to an argument that was not exactly an argument, but a conversation that took place in the Vendome Hotel rotunda. I made the remark that two physicians in this town had stated that from 20 to 25 per cent. of the cases of typhoid were not genuine typhoid. I did not say that of the 114 cases that were reported to you, or any other cases that were reported to you. That statement was made, and that statement was made in the presence of Dr. McCullough at the first meeting of the Board of Health at which he was present, and it was made by Dr. Merrison, and part by Dr. Bentley. Am I not right?

THE COMMISSIONER: Not reported cases.

WITNESS: I did not say reported cases.

THE COMMISSIONER: I would not deny that such a statement was made at the time. I have some recollection that something was said at that meeting.

A.—That was the statement I made, and I can prove it. Dr. Bell is mistaken when he speaks of 25 per cent. of the 114 cases.

DR. BELL: Why did I jump up from my chair at the moment and contradict it, because 114 was the only thing I knew anything about, and then you drew your horns in.

WITNESS: I did not have any horns to draw in.

THE COMMISSIONER: Do you know of any reports on water made by any analyst that have been suppressed?

A.—The only information I had on that score was that I heard it reported on the street that there were reports on water that had been received and had never been made public. I called up the town engineer and asked him if he had any reports on the water: he told me he had, and I said I wanted them to publish them, but he said he would have to see the Chairman of the Fire and Water Committee before I could get them.

Q.—How long ago was that?

A.—Those were the reports of the doctor in Ann Arbor.

Q.—It is curious to me that the bad reports from Dr. Vaughan you did not get to publish, or did not publish, anyway?

A.—That is not my fault.

Q.—But how does it come that you get the good ones to report?

A.—I don't know. I published every report Dr. Pousette gave to me, good or bad. Mr. Hanna asked me if I would do it, and I said I would be pleased to do so, that it would not make a particle of difference to me whether it was good or bad, I would report it every day.

Q.—I have a report made on the waters for the last 10 or 12 years.

A.—I never saw them.

Q.—They were proven yesterday by Dr. Nasmith, I have them here and you can see them if you wish. I think you ought to answer the questions I ask you about what comes out in the paper.

A.—The policy of the *Observer* has nothing to do with the cases of typhoid.

Q.—I am not talking about the policy of the *Observer;* you speak here re-

lating to 114 cases of typhoid fever reported to Dr. Bell, and investigated, that "97 out of 99 cases were large consumers of Sarnia water. It might also be said that of the 9,000 inhabitants of Sarnia who remained free from typhoid, 8,999 are large and regular consumers of Sarnia water, and the only 'plausible' reason for their immunity is the condition of the town water supply." I would infer from that that you believe the town water is good?

A.—I believe it is, if it is taken from the proper place.

Q.—Would you mind telling us what the proper place is?

A.—Out of the channel of the river.

Q.—Can you explain this; you know when the intake was put out, in 1905?

A.—Some time around there.

Q.—In 1904 they had the lowest number of cases in the hospital here that they have had for five or six years previous to that; in 1904 there were 18 cases in the hospital, in 1905, 46; then 41, 28, 49, 46, 35, and 59 in 1911. Does that seem to indicate that the extension of the intake had helped the situation any?

A.—I don't know whether it helped it or was detrimental to it.

Q.—You would not pass any opinion on it?

A.—No.

Q.—Are you of the opinion that if the intake is put out 700 feet the water would be safe?

A.—I think if it was put up into the river channel—that is, 200 feet out from the channel—I mean out where it is supposed to be 780 feet, and that the intake was properly put down, I don't think we could get any better water than we could get there.

Q.—But examinations by four different analysts have shown bad samples of water?

A.—I have never seen any reports taken from where the intake should be.

Q.—You will never have to say that again, because I will show you one now; the intake is out opposite George Street?

A.—Yes.

Q.—About 700 feet out?

A.—Something like that.

Q.—On the 20th of April, 1905, Mr. Johnson of this town sent a sample of water taken 700 feet from the dock, opposite George Street; he proved yesterday here that he sent that sample; he also took one from 1,000 feet from the dock opposite George Street, one 500 feet; the one at 1,000 feet showed colon bacillus and infection; the one at 500 feet was clear, and the one at 700 feet showed infection?

A.—Why were these reports never made public?

Q.—We are not responsible for that; they were sent here; you were not aware that such a report was in existence?

A.—No, sir.

Q.—Then what would you say about the intake out there?

A.—I don't know whether the taking of three samples from the river would be a sufficient guarantee that all the river water was impure.

Q.—Well, we will give you a little more information. You know Mr. George P. France?

A.—Yes, sir.

Q.—I suppose you will admit that he is capable of making a water examination?

A.—I don't know.

Q.—Well, if he said he could do it, and had done it, you would not dispute him?

A.—I would not dispute his word. I know he is employed at the Imperial Oil Works, but in what capacity I don't know.

Q.—He took samples out 700 feet from the waterworks during a period of seven months last year, and he found the water invariably contaminated, that in only one month he did not find contamination of the water out there; would that be of any value to you, to form an opinion upon?

A.—It would depend at what depth the samples were taken, and how they were taken.

Q.—I do not suppose he was taking them to get after anybody at all, but he was taking them so that he would know whether there was good water out there or not; that was his object right along in those examinations; then we have the one I read to you from Dr. Vaughan. Would all these have any effect upon you, in forming an opinion?

A.—I think the water was bad.

Q.—But when every month but one showed contamination, out of the seven, would that lead you to believe the water was good, or bad?

A.—The water we are getting now?

Q.—The water out about the intake.

A.—I don't think the water at the intake—

Q.—Do not confuse it: you are talking about the intake being out at the point where it is now, and in good condition?

A.—Yes.

Q.—Then we are taking samples out there, with the intake we will say in good condition, and all those samples I have been speaking about have been examined and found bad, the intake is in good condition and the water coming through, but at the same time the water is contaminated?

A.—Have you any authority for saying that the samples were all taken when the intake was in good condition?

Q.—No, I am only assuming that the intake was in good condition; I am only taking samples which would be taken out at the intake when it was in good condition at the same time Mr. George P. France examined the tap water, and so did Dr. Vaughan, of Ann Arbor, and they have found the tap water bad, and have sworn to it; what do you say about the water supply?

A.—It would depend upon whether the water was taken from the surface, or 28 feet down, where the intake was supposed to be. I don't know whether the samples were taken 28 feet down where the intake was supposed to be, and I don't think the water at that depth is impure.

Q.—Do you know that it is pure?

A.—No. I don't know any more about it than any person else.

Q.—How deep is the water?

A.—I am told it is 27 feet.

Q.—Do you know how often that water will turn over?

A.—I cannot recollect.

Q.—How often does the water in Lake Huron turn over?

A.—I cannot tell you, offhand; would the two conditions be the same?

Q.—Would the water in Lake Huron turn over the same as water in the river?

A.—The conditions are not the same. I know that.

Q.—The water in the river is constantly mixing; it does not run in strata, does it?

A.—Do you mean that there are not two currents?

Q.—For instance, the water on the top, and the water on the bottom, and the water in the middle, do they mix?

A.—It mixes to a certain depth, I believe.

Q.—You would not believe that it is mixing all the time?

A.—I don't know.

Q.—Then you ought to get somebody else to give better advice to the people of Sarnia.

A.—That is a matter of opinion.

Q.—You should stop giving advice to the people of Sarnia as to what they ought to do about a supply of water.

A.—That is a matter of opinion.

Louis Meyers, sworn, examined by The Commissioner:

Q.—You have made examinations of the intake pipe?

A.—I have made examinations of the pipe.

Q.—Any lately?

A.—I could not give you the date, but I believe it was about the first of this month.

Q.—There is a rough sketch of the broken intake pipe here; would you say whether that is correct (shows to witness)?

A.—That is my plan, I believe, with the exception of the log.

(Marked Exhibit 17.)

Q.—That is the intake pipe at the present time?

A.—That is it, almost.

Q.—You examined it at the same time as a man named Margerison?

A.—I believe I examined it before him.

Q.—Did your conclusions coincide?

A.—I never saw his report; never saw the gentleman.

Q.—I only want to establish in a general way the condition of it; Mr. Margerison says in his affidavit, which is marked Exhibit 6, that on Thursday he received orders to proceed, and that he proceeded to the place and found the pipe out of place: (reads affidavit). Is that substantially correct?

A.—I could not say.

Q.—Does it coincide with your own examination?

A.—Yes.

Q.—That coincides with what you saw?

A.—Yes.

Q.—Are there pretty strong currents about the mouth of the intake?

A.—Yes. Where the strainer is?

Q.—Yes?

A.—About three and a half miles.

Q.—Does it vary as you come to the surface?

A.—No.

Q.—I suppose you cannot tell exactly about that?

A.—No.

Q.—Could you say how long that intake has been broken?

A.—No, sir.

Q.—Would you say it was as long as two years?

A.—I could not tell you.

Q.—Could you say it has been broken longer than a month?

A.—Yes, sir.

Q.—Why?

A.—Because the bolts I brought to the surface that were in the flange where the two pipes were connected were corroded so that I know it would take more than a month to form that corrosion around the edge.

Q.—Can't you form any idea at all how long?

A.—No; that question has been asked me several times; if anybody will see those bolts and will tell me how long it would take to corrode those bolts from the time they were brought to the surface you could get an idea when it was broken.

Q.—Would you think it was a year?

A.—I could not say.

Q.—The intake in such a position as that is, if repaired or a new one put in, would be liable to the same accident?

A.—Very likely, yes, sir.

Q.—There is nothing you know of in the harbor regulations that would prevent a boat dropping anchor there?

A.—No, sir.

Q.—Do you know anything about the currents farther in-shore?

A.—It keeps diminishing as you keep working in. When you come in I dare-say three hundred feet from where the strainer is at the present time, the current is probably half what it is at the strainer, and when you get at where the pipe is ruptured at the present time you have not any current whatever; the water is dead.

THE COMMISSIONER:—Mr. Wanless, is Mr. Gorman connected with your paper?

A.—Yes, sir.

Q.—He is unable to come?

A.—Yes, sir.

THE COMMISSIONER: We have now examined all the witnesses we know of who know anything of this matter, with the exception of Dr. Merrison, who has not come here to-day. I will be pleased to receive any evidence that may be offered. I do not know of anyone else I can examine, now.

EDWARD M. ROSS: When Mr. Bell, the engineer of the waterworks, was giving his evidence yesterday, he was asked what quantity of chlorine they were using in 24 hours, and you said you would bring the matter up to-day.

THE COMMISSIONER: Yes, decimal three (.3) parts to a million, was what Mr. McLean said.

MR. ROSS: But in pounds?

THE COMMISSIONER: Between nine and ten pounds per million.

MR. ROSS: Mr. Bell in his evidence yesterday said about forty pounds in 24 hours. I have raised this question for the simple reason that it was brought out in the evidence yesterday that there was nothing injurious in that chlorine, but it was shown that the quantity of chlorine that would be required would be about three pounds to the million gallons.

THE COMMISSIONER: That was not brought out yesterday.

MR. ROSS: No; Dr. Amyot said about three pounds to the million gallons. Mr. McLean said about one pound to a million gallons. It would figure out about forty pounds. A great many citizens are complaining about the taste of the chlorine. Notwithstanding the evidence of the experts, I do not think it is a good thing for a man to put into his system. We find down in the waterworks that the old barrels this liquid stands in before they put it into the mains are gradually eaten up. I saw barrels made of 7/8-inch timber eaten out by the chlorine. And if there is any necessity of putting in forty pounds—

THE COMMISSIONER: Not putting in forty. The engineer said to-day what they were putting in, and he ought to know. It is not of much consequence, anyway.

MR. ROSS: Possibly not.

(Adjourned at 4.50 until 7.30 p.m.)

Resumed at 7.30 p.m.

THOMAS ACTON, sworn, examined by THE COMMISSIONER:

Q.—Did you personally serve Dr. J. G. Merrison with a subpœna to appear here?

A.—I did.

Q.—He did not obey it?

A.—He did not.

Q.—Have you since seen him?

A.—I have.

Q.—What did he say, if anything?

A.—He said he would not come without he was first given four dollars.

THE COMMISSIONER: Call his name three times.

(The witness called the name of J. G. Merrison three times, but there was no response.)

THE COMMISSIONER: We will adjourn for the present, until further notice.

Certified correct,
JOHN BUSKARD,
Official Stenographer.

BACTERIOLOGICAL EXAMINATION OF THE WATER SUPPLY OF SARNIA.

Made by VICTOR C. VAUGHAN, Director of Michigan University Laboratory of Hygiene, all specimens being town tap water, except the first.

DATE.			Number of bacteria per cc. developed on an agar plate in 48 hours at 20 degrees.	38 degrees.
Sept. 10, 1909.	No. 0	AT INTAKE	16,500	42,322
		REMARKS:—This water should not be used. It is bad qualitatively and quantitatively. It contains a typhoid-like bacillus. It is dangerous.		
Sept. 10, 1909.	No. 1	TOWN TAP WATER	125,550	278,675
		REMARKS:—This is not a clean water. The number o bacteria is too high, but we find no pathogenic organism s It is condemned on account of the number of bacteria.		
Sept. 10, 1909.	No. 2	TOWN TAP WATER	18,720	8,400
		REMARKS:—This is not so bad, but still the number of bacteria is too high. There are no pathogenic bacteria		
Sept. 10, 1909.	No. 3	TOWN TAP WATER	113,400	405,000
		REMARKS:—This contains colon bacillus and should no be used. The number is also too high.		
		After 48 hours at 20 degrees.		38 degrees.
Sept. 10, 1909.	No. 4	TOWN TAP WATER	38,474	42,120
		REMARKS:—This is condemn on account of the number of bacteria. I have to assume that the coutainers of all these samples were sterilized before being filled with water. Of course, if the bottles were dirty before being filled, these results are not reliable.		
Dec. 26, 1911.	No. 1	After 24 hours at 20 degrees.		38 degrees.
			4	86
		" 48 "	120	130
		REMARKS:—I should have no hesitancy in saying that this water is a safe drinking water. It will bear some increase in the chlorine, but I do not think this necessary. The man who examined these waters knew nothing of their relation, and there is one point in the analysis which I cannot understand. I cannot see how the Albuminoid of Ammonia should be increased by the chlorine. I will have him go over this again.		
Dec. 26, 1911.	No. 2	After 24 hours at 20 degrees.		38 degrees.
			20	270
		" 48 "	260	410
		REMARKS:—This water, while it is not so good as the other makes a good showing. I would like to know what evidence you have that the typhoid is due to the water. Have other possible sources of the epidemic been investigated? I would be glad to have a brief statement of the origin and extent of the outbreak. It hardly seems possible that this water in its present condition could be the source of typhoid.		

REPORT on waters received from the Municipal Authorities of Sarnia, on the indicated days of the years between 1903 and 1912.

In parts per Million.

1903.	Sender's Numbers.	Where collected from.	Free Ammonia.	Albuminoid Ammonia.	Nitrogen as Nitrites and Nitrates.	Oxygen consumed in 5 minutes.	Chlorine.	Hardness. Total.	Hardness. Temporary
April 13th....	1.	†	.015	.07	.125	1.15	2	.....	.....
"	2.	†	.025	.06	.11	1.00	2	.....	.....
"	3.	†	.025	.08	.12	1.3	2	.....	.....
"	4.	†	.023	.07	.112	1.4	2	.....	.....
"	5.	†	.035	.075	.125	1.35	2	.....	.....
"	6.	†	.025	.060	.145	1.45	2	.....	.....
"	7.	†	.025	.075	.14	1.65	2	.....	.....
"	10.	†	.040	.065	.135	1.55	2	.....	.....
"	18.	†	.015	.065	.145	1.40	2	.....	.....
"	23.	†	.015	.095	.15	1.45	2	.....	.....
May 2nd.....	1.	†	.015	.065	.100	1.00	3	.....	.....
"	2.	†	.030	.070	.104	.80	3	.....	.....
"	3.	†	.025	.07	.14	.85	3	.....	.....
"	4.	†	*.050	.245	.20	3.35	4	.....	.....
"	5.	†	.04	.07	.085	1.15	3	.....	.....
"	6.	†	*.04	.184	.09	1.35	4	.....	.....
"	7.	†	.05	.075	.045	1.35	4	.....	.....
"	10.	†	*.06	.14	.06	1.8	4	.....	.....
"	18.	†	*.044	.155	.066	1.85	4	.....	.....
"	23.	†	*.02	.115	.13	.80	3	.....	.....
May 29th.....	11.	†	.012	.03	.0375	1.45	1	.....	.....
"	12.	†	.012	.0425	.075	1.75	3.5	.....	.....
"	13.	†	.012	.0325	.0575	1.4	2.5	.....	.....
"	14.	†	.012	.05	.0475	1.15	2	.....	.....
"	16.	†	.0175	.0375	.0475	1.10	1	.....	.....
"	17.	†	.0175	.040	.0525	1.50	2.5	.....	.....
June 11th.....	1.	†	.02	.05	.01	2.3	4	.....	.....
"	2.	†	.06	.105	.06	1.2	4	.....	.....
1905								Hardness.	
April 20th....	.....	1,000 ft. from dock.....	.04	.025	.....	.....	4	126	.....
"	.....	500 ft. from dock, opposite George.....	.055	.025	.....	.....	3	127	.....
"	.....	700 ft. from dock, opposite George.....	.025	.025	.....	.....	3	127	.....

* These five samples show an increased amount of organic matter as compared with the normal.

† The information with reference to the sources of the samples was not specified. It is in the hands of the Municipal Authorities of Sarnia.

JOHN A. AMYOT.

Report on waters received from the Municipal Authorities of Sarnia, on the indicated days of the years between 1903 and 1912.

\+ = Present. — = Absent. Per Cubic Centimeter.

Laboratory Number.	Sender's Number.	Where Collected From.	Bacteria grown in N. Agar + 10.0 and Litmus Lactose Agar.			Streptococci.	Colon Bacilli.	*Colonoid Bacilli.	Chlorine in parts per Million.
			at 18°—22° c. for 48 hours.	at 37°—40° c. for 18 hours. Total.	Red.				
1905									
April 20		*1000 ft. from dock, opposite George	.....	.....	.....	—	+	—	4
"		500 ft. from dock, opposite George	.....	.....	.....	—	—	—	3
"		700 ft. from dock, opposite George	.....	.....	.....	—	—	+	3
May 2	37	Foot of Lake Huron 150 feet out. 20 feet deep	.....	.....	.....	—	—	—	2
"	38	Foot of Lake Huron, 150 feet out, 12 feet deep	.....	.....	.....	—	—	—	3
"	45	Opposite George St., 500 feet out, 20 feet deep	.....	.....	.....	—	—	—	4
"	11	700 ft. out, 20 ft. deep, opp. George St.	.....	.....	.....	—	—	—	4
1909									
Sept. 3.	1	*Location not known	.....	.....	.....	—	+	—	8
"	2	* " " "	.....	.....	.....	—	+	—	20
"	3	* " " "	.....	.....	.....	—	+	—	8
"	4	* " " "	.....	.....	.....	—	+	—	6
Sept. 13.		" " "	.....	.....	.....	—	—	—	4
"	1	* " " "	.....	.....	.....	—	+	—	4
"	2	" " "	.....	.....	.....	—	—	—	6
"	3	* " " "	.....	.....	.....	—	+	—	6
"	4	* " " "	.....	.....	.....	—	+	—	6
1910									
July 23.		" " "	.....	.....	.....	—	—	—	2
"		" " "	.....	.....	.....	—	—	—	4
1911									
Dec. 22.		Not known—O.B	.....	.....	.....	—	—	—	6
Dec. 27.	1	Side dock below G. T. elevator	20	.....	.....	—	—	—	5
"	2	*Foot of Exmouth St., Sarnia	560	.....	.....	—	+	—	7
"	3	Bay in rear of ice-house below salt work	60	.....	.....	—	—	—	14
"	4	*Upper end of ferry dock	300	.....	.....	—	+	—	5
"	5	*Town hall police station tap	200	.....	.....	—	+	—	5
"	6	Tap at Vendome Hotel	50	.....	.....	—	—	—	5
"	7	Bay at point of intake	25	.....	.....	—	—	—	5
"	8	100 yards above intake	15	.....	.....	—	—	—	5
1912									
Jan. 8.	3	Town tap	150	.....	.....	—	—	—	7
"	4	Sarnia Bay	200	.....	.....	—	—	—	5
Jan. 6.	1	Tap at police station	.....	.....	.....	—	—	—	3
"	2	100 feet from pump house	.....	.....	.....	—	—	—	3
Jan. 12.	9	Intake	10	.....	.....	—	—	—	6
"	10	Police tap	64	.....	.....	—	—	—	7
"	11	Intake	75	.....	.....	—	—	—	7
"	12	Town tap	15	.....	.....	—	—	—	7
"	12	Intake	13	.....	.....	—	—	—	7
"	13	Town Tap	sterile	.....	.....	—	—	—	7
"	5	Town hall tap	150	.....	.....	—	—	—	4
"	6	St. Clair river	125	.....	.....	—	—	—	6
"	7	Town hall tap	Bottle broken, contents gone.						
"	8	Intake pipe, police force	40	.....	.....	—	—	—	10
"	9	George Street	5	.....	.....	—	—	—	13
"	10	Intake	300	.....	.....	—	—	—	15
Jan. 26.	1	Intake	sterile	.....	.....	—	—	—	6
"	2	Town tap	6	.....	.....	—	—	—	6
"	3	Intake	sterile	.....	.....	—	—	—	6
"	4	Town tap	sterile	.....	.....	—	—	—	6

*Colonoid bacilli are such as belong to the colon group.

Bacterial counts are made only when specimens are still in ice and the "time limit" of 20 hours has not been run over.

Remarks.—Eleven of these samples show infection with bacteria of intestinal origin, and are, therefore, of a suspicious character. The third from the top should be included in these.

Since January 8th, 1912, no sample showed the presence of the Colon bacillus.

JOHN A. AMYOT.

TYPHOID IN PETROLEA.

Q.—What is the record of Petrolea Town for typhoid for the year 1911?

A.—One case only, imported.

Q.—How far are the doctors in Petrolea able to say whether the Petrolea waterworks was or was not the cause?

A.—Our waterworks are the best and give us pure water from Lake Huron.

Q.—What is the record of Petrolea Hospital for typhoid cases since it opened? How many of these cases were from the Town of Petrolea?

A.—The case above referred to.

R. H. Macalpine, M.H.O.

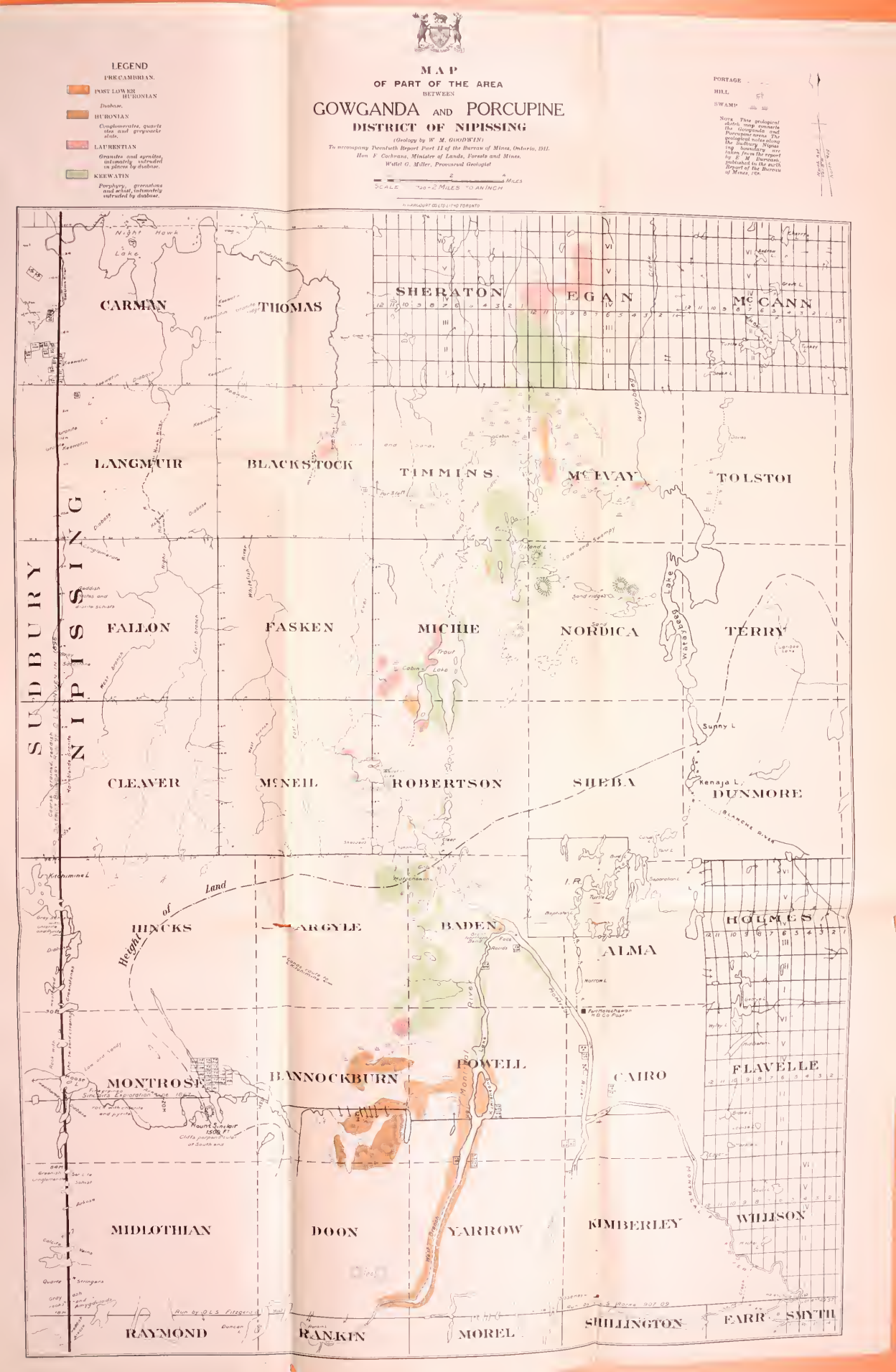
STATEMENT OF MR. JOHN McGIBBON, MAYOR OF SARNIA, *RE* TYPHOID, ETC.

Questions.	Answers.
1. Date of installation of waterworks system.	1. July 1st, 1876.
2. Date when waterworks system could be fairly said to have come into general use for domestic purposes.	2. August, 1876.
3. What was the condition of Sarnia Bay, as to weeds, water lilies, etc., growing in it, and as to industries on its banks, at the time when the waterworks could be said to have come into general use?	3. Large tract of the Bay was covered with weeds and water-lilies, but two channels running through same. One tannery and shipbuilding yard.
4. How far out was the intake placed in the original construction?	4. 180 feet out.
5. What were the general conditions as to Typhoid before the waterworks were originally installed?	5. I am not aware that Typhoid was then prevalent.
6. Did the installation of the waterworks have any effect on the Typhoid conditions? (For this, there would appear to be no data, apart from the records of the doctors themselves of that day.)	6. All the doctors of that period are dead, except Dr. Poussette, and he has no special records of Typhoid Fever.
7. What engineering advice, as to intake, did the Town get before installing their waterworks system? If in the form of written report, or reports, it would be important to have such report, or reports, in full, as part of the return to this question.	7. None; only advice from F. Blaikie and R. Turner, engineers; both deceased. No written report.
8. What extensions of the intake, as originally adopted, have been made? Give the date when each extension was first in operation, and the distance the intake, as the result of such extension, was from the dock.	8. In 1898, we put in a three-million-gallon pump. Intake was extended 75 ft. 26 in. in diameter. Old one done away with, which was 18 in. only. In 1905, a new intake was installed 700 ft. out (36-in. pipe). Comes into a well by gravity from where we pump it.
9. It is stated that it was the practice for a long time after the last extension, about the year 1905, to use the old intake, and the old pumps, one day in the week for about three hours a day. What are the facts in this connection, if the practice obtained? When was it finally discontinued?	9. We used to pump twice a week for two years or so, then that pipe was abandoned, and now pumping from 36-in. pipe.
10. What inspection has been made of the new intake since it was installed (giving dates and extent of this inspection in each case, with the names of the divers who made it)? It would be well to have the reports of the divers as part of this return, if those reports were made in writing. If not made in writing, it would be well to get them to give in detail a written report now.	10. Diver inspected pipe one year after it was installed; same year again. Again in 1907. No written report.
11. Is there any evidence, apart from inspection by divers, as to when the intake was broken? If so, what is it?	11. None.
12. Is it clear that the medical men are reporting every Typhoid case now, say, since November 1st, 1911?	12. They are reporting all fresh cases, and reported 136 cases since November 1st.

STATEMENT OF DR. A. C. POUSSETTE, M.H.O., SARNIA, *RE* INTAKE PIPE, TYPHOID CASES, ETC.

QUESTIONS.	ANSWERS.
1. Date of installation of waterworks system.	1. July 1st 1876.
2. Date when waterworks system could be fairly said to have come into general use for domestic purposes.	2. It began to be used, to a very limited extent, as soon as installed, and the use was gradually extended as the pipes were laid down.
3. What was the condition of Sarnia Bay, as to weeds, water lilies, etc., growing in it, and as to industries on its banks at the time when the waterworks could be said to have come into general use?	3. Large tracts of the Bay were covered with grass, reeds, and water-lilies, with tolerably deep channels running up into it. The only industries on the Bay-shore, at that time, were a shipbuilding yard and a small tannery.
4. How far out was the intake placed in the original construction?	4. One hundred and eighty feet.
5. What were the general conditions, as to Typhoid, before the waterworks were originally installed?	5. Typhoid was not then generally recognized as such. The cases of continued fever were mostly looked upon as bilious remittants.
6. Did the installation of the waterworks have any effect on the Typhoid conditions? (For this there would appear to be no data, apart from the records of the doctors themselves of that day.)	6. All the doctors of that day (except myself) are dead, and I have no special records of Typhoid.
7. What engineering advice, as to intake, did the Town get before installing their waterworks system? If in the form of written report or reports, it would be important to have such report, or reports, in full, as part of the return to this question.	7. From Francis Blaikie and Robt. Turner, both now dead. No written reports.
8. What extensions of the intake, as originally adopted, have been made? Give the date when each extension was first in operation, and the distance the intake, as the result of such extension, was from the dock.	8. In 1898, intake was extended 75 ft., diameter increased 8 in. In 1905, a new intake pipe, 36 in. in diameter, was extended 700 ft. into the River.
9. It is stated that it was the practice for a long time after the last extension, about the year 1905, to use the old intake and the old pumps one day in the week for about three hours a day. What are the facts in this connection, if the practice obtained? When was it finally discontinued?	9. The old intake was so used. The engineer cannot say when this was discontinued, but thinks it was in 1907.
10. What inspection has been made of the new intake since it was installed (giving dates and extent of this inspection in each case, with the names of the divers who made it)? It would be well to have the reports of the divers as part of this return, if those reports were made in writing. If not made in writing, it would be well to get them to give in detail a written report now.	10. Inspected by a diver in 1906 and said to be all right. Again in 1907, and the diver said he found nothing wrong. There are no written reports, and I could not get the names of these divers.
11. Is there any evidence, apart from inspection by divers, as to when the intake was broken? If so, what is it?	11. None.
12. Is it clear that the medical men are reporting every Typhoid case now, say, since November 1st, 1911?	12. The local registrar says: Yes. He has received reports of 136 cases since November 1st, 1911.

(Signed) A. C. POUSSETTE,
Medical Health Officer.

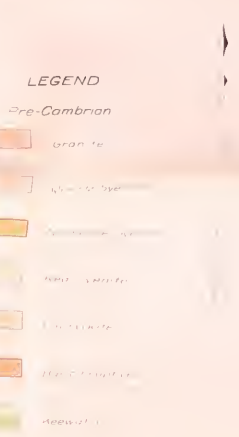

LEGEND
PRECAMBRIAN.
POST LOWER HURONIAN
Diabase.
HURONIAN
Conglomerates, quartz ites and greywacke slate.
LAURENTIAN
Granites and syenites intimately intruded in places by diabase.
KEEWATIN
Porphyry, greenstone and schist, intimately intruded by diabase.
MAP
OF PART OF THE AREA
BETWEEN
GOWGANDA AND PORCUPINE
DISTRICT OF NIPISSING
(Geology by W. M. GOODWIN)
To accompany Twentieth Report Part II of the Bureau of Mines, Ontario, 1911.
Hon. F. Cochrane, Minister of Lands, Forests and Mines.
Willet G. Miller, Provincial Geologist
SCALE 1/2 MILES TO AN INCH
PORTAGE
HILL
SWAMP
SHERATON
EGAN
McCANN
CARMAN
THOMAS
LANGMUIR
BLACKSTOCK
TIMMINS
McEVAY
TOLSTOI
FALLON
FASKEN
MICHIE
NORDICA
TERRY
CLEAVER
McNEIL
ROBERTSON
SHEBA
DUNMORE
HINCKS
ARGYLE
BADEN
ALMA
HOLMES
MONTROSE
BANNOCKBURN
POWELL
CAIRO
FLAVELLE
MIDLOTHIAN
DOON
YARROW
KIMBERLEY
WILLSON
RAYMOND
RANKIN
MOREL
SHILLINGTON
EARR
SMYTH
SUDBURY
NIPISSING
Height of Land
Mount Sinclair 1506 ft.
Sinclair's Exploration
Kenaja L.
Sunny L.
Wagosage Lake
Blanche River
Montreal River
Night Hawk Lake
Kirkpatrick Lake
Cabin L.
Trout L.
Narrow L.
Turtle L.
Fort Matachewan H.B.Co. Post
Run by O.L.S. Fitzgerald
Run of S. boundary 907.09

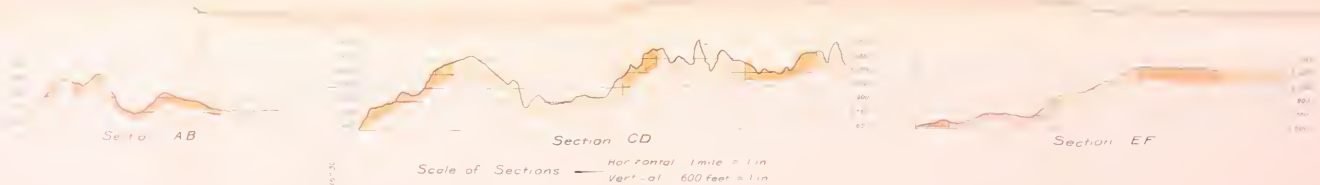
GEOLOGICAL MAP
OF PART OF THE
NORTH SHORE of LAKE SUPERIOR
DISTRICT of THUNDER BAY

To accompany Report of the Bureau of Mines
IN THE NINETEENTH REPORT OF THE BUREAU OF MINES
ONTARIO. 1910.

Hon. F. Cochrane, Minister of Lands, Forests and Mines
W. et. Miller, Provincial Geologist

Scale 1 mile = 1 inch





Scale of Sections — Horizontal 1 mile = 1 in
Vertical 600 feet = 1 in

BINDING SECT. AUG 2 4 1967

MAP OF
THE TOWN OF
SARNIA
RIVER
SINCLAIR

BINDING SECT. AUG 2 4 1967

MAP
of the
LAKE SAVANT IRON RANGE AREA

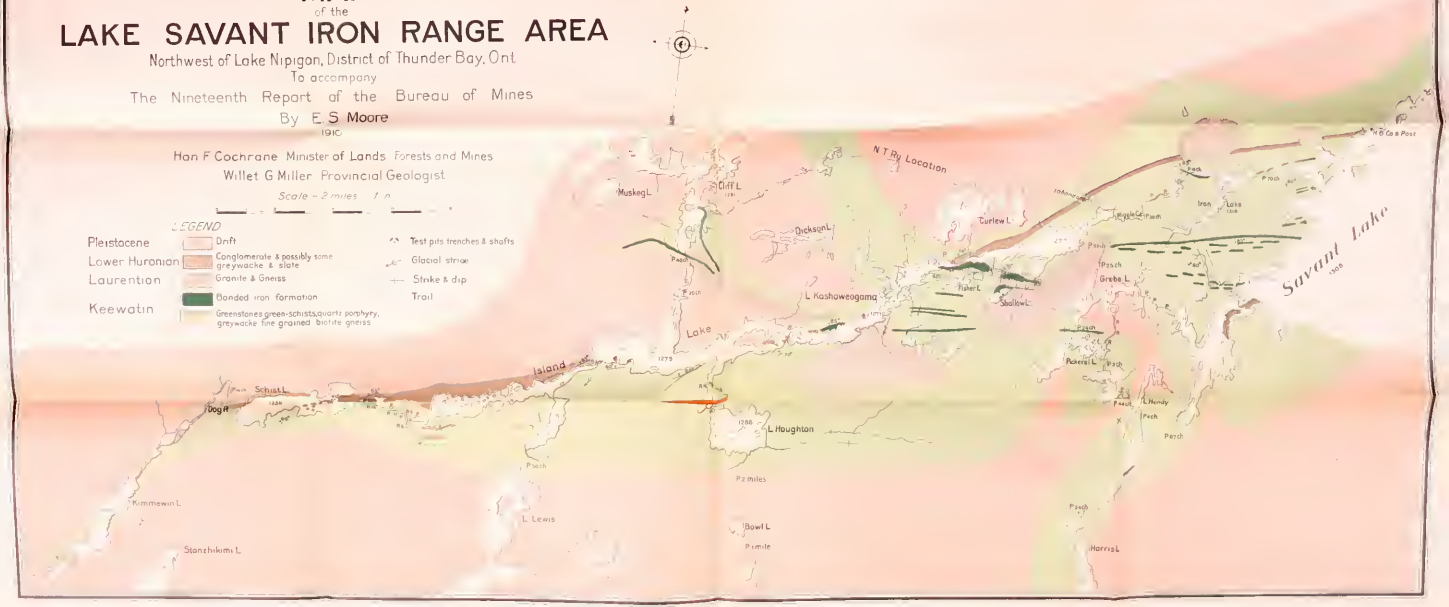
Northwest of Lake Nipigon, District of Thunder Bay, Ont.
To accompany
The Nineteenth Report of the Bureau of Mines
By E. S. Moore
1910

Hon F. Cochrane Minister of Lands Forests and Mines
Willet G. Miller Provincial Geologist

Scale – 2 miles 1 in.

LEGEND

Pleistocene	Drift	Test pits trenches & shafts
Lower Huronian	Conglomerate & possibly some greywacke & slate	Glacial striæ
Laurentian	Granite & Gneiss	Strike & dip
	Banded iron formation	Trail
Keewatin	Greenstones green-schists, quartz porphyry, greywacke fine grained biotite gneiss	



BINDING SECT. AUG 2 4 1967